

[No. 112, S.]

[Published March 10, 1885.]

CHAPTER 37.

AN ACT to incorporate the City of Kaukauna.

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

CHAPTER I.

Corporate
name.

SECTION 1. From and after the 25th day of March, A. D. 1885, all that district of country, together with the incorporated village of Ledyard, in the county of Outagamie and state of Wisconsin, hereinafter described, shall be and remain a city by the name of Kaukauna; and they who do now, or hereafter inhabit said district, shall be a municipal corporation by the name of "The City of Kaukauna," 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 granted; and the authorities thereof shall have perpetual succession; shall be capable of contracting and being contracted with; suing or 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.

Ward bound-
aries.

SECTION 2. All that district of country included within the following boundaries, shall comprise said city, and shall be divided into five wards, as follows: Named respectively, the first ward, the second ward, the third ward, the fourth ward and the fifth ward. For municipal or other purposes, the first and second wards shall be known as North Kaukauna, and the third, fourth and fifth wards to be known as South Kaukauna, the center line of the main channel of Fox river shall constitute the dividing line; commencing at the point of the intersection of the east and west center line of section 18, in township 21 north, of range 19 east, with the northwest line of private claim 33, thence south 40 degrees east, along said northwest line of said private claim 33, to the north bank of Fox river, thence in a southwesterly direc-

tion across said Fox river to the northeast corner of lot 1 in fractional section 1, on the south bank of said Fox river in township 21 north, of range 18 east; thence due south fifty-seven and seventeen hundredths chains to the quarter post on the southeast corner of said lot 1, of fractional section 21; thence due west fifty and ninety-eight hundredths chains to the east line of lot 1, in fractional section 22; thence south ten and sixty hundredths chains to the southeast corner of said lot 1, of fractional section 22; thence due west thirty-two and twenty-three hundredths chains to the southwest corner of lot 5, in said fractional section 22; thence north eleven and ninety hundredths chains to the southeast corner of lot 6, in said fractional section 22; thence due west twelve and thirty-one hundredths chains to the southwest corner of lot 7, in said fractional section 22; thence due north to the center of the highway known as the Green Bay and Menasha plank road; thence south 60 degrees west along the center of said highway fourteen and fifty-nine hundredths chains to the southwest corner of lot 1, in fractional section 23; thence north fifty-three and twenty-four hundredths chains to the northwest corner of said lot 1, in fractional section 23, on the south bank of Fox river; thence in a northwesterly direction across the said Fox river to the point of the intersection of the north and south center line of section 23, township 21, range 18 east, with the north bank of said Fox river; thence north along said north and south center line of sections 23 and 14, in said township and range, to the center post in section 14; thence due east across private claims 1, 35, 34 and 33 to the place of beginning.

FIRST WARD.

SECTION 3. The First ward of the city of Kaukauna shall consist of that territory of land within the city limits above described, lying southwest of the southwest line of the north half of private claim 35, and west of the center line of Desnoyer street, and all of the block 23, lying south of the center line of Wisconsin avenue, on the north side of Fox river. First ward.

SECOND WARD.

The Second ward of the city of Kaukauna com- Second ward.

prises all the territory lying east and north of the above described limits of the first ward, within the city limits and north of Fox river.

THIRD WARD.

Third ward. The Third ward of the city of Kaukauna comprises all that part of the village plat of Ledyard, lying west and southwest of the following described division line, south of the center line of Fox river: Extend Fourth avenue in a straight line to its center point in Fox river, from that point in a southwesterly direction to where the center line of Fourth avenue intersects the center line of Fifth street, thence southeast to the center line of Third avenue, thence due south to the city limits.

FOURTH WARD.

Fourth ward. The Fourth ward of the city of Kaukauna comprises all the territory east and southeast of the dividing line of the third ward south of Fox river.

FIFTH WARD.

Fifth ward. The Fifth ward of the city of Kaukauna comprises all the islands and island groups, within the limits of the city of Kaukauna, generally known as islands numbered one, two, three and four, in Fox River.

CHAPTER II.

CITY AND WARD OFFICERS.

City and ward officers. SECTION 1. The officers of said corporation, shall consist of a mayor, two aldermen from each ward, one supervisor from each ward to represent such ward in the county board of supervisors, one city clerk, one assessor, one city treasurer, one city attorney, two marshals, one for North Kaukauna and one for South Kaukauna, two street commissioners, one for each side, one chief of fire department, two justices of the peace, five constables, one from each ward, and such other officers as the common council of said city deem necessary.

Names of officers to be elected. SECTION 2. The mayor, clerk, assessor, treasurer and justices of the peace, shall be elected at the annual municipal election by the electors at

large; the aldermen, supervisors and constables, 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 on the first Tuesday 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.

SECTION 3. The mayor, treasurer, assessor, aldermen and supervisors, must be freeholders of said city, and all city and ward officers shall be qualified voters, and residents of the city and in the ward for which they were elected or appointed. The mayor, clerk, assessor and treasurer, constables, one alderman and the supervisors from each ward, shall be elected annually, excepting however, that at the first municipal election, one alderman be also elected for two years, and every year thereafter one alderman shall be elected for two years. The justices of the peace shall hold their term of office for two years. All officers shall hold their office until their successors be elected and qualified, and their term of office shall, except as is otherwise provided by law, begin on the second Tuesday in April.

Qualifications
of officers.

SECTION 4. The common council shall have power, for due cause, to expel any of its own number, and to remove any elected or appointed officer, excepting justices of the peace, due notice and an opportunity having been first given for a hearing to the officer proposed to be removed. Any officer, elected or appointed, who shall duly be notified of his election or appointment, failing to qualify within ten days after such election or appointment, shall forfeit his election or appointment, and his office deemed vacant, except justices of the peace, whose qualifications are governed by the general law. All vacancies shall be filled to the next municipal election, by a majority vote of all the members of the common council, excepting in the case of mayor, which vacancy shall be filled by special election, of which five days' notice must be given by the clerk, as directed by the common council.

Powers of com-
mon council.

SECTION 5. The members of the common council, the supervisors, the justices of the peace,

No salary
should be paid
except fees.

and the constables, shall receive no salary from the city, excepting legal fees as the law provides. The compensation to be paid to the city treasurer, city clerk, assessor and other officers, shall be established on the first meeting of the common council after the first municipal election, and may be paid in installments or annually. All such salaries shall be fixed for each and every appointive office before the appointment is made.

ELECTIONS.

Election precincts and inspector's districts.

SECTION 6. The city shall be divided into two election precincts, one to comprise wards one and two, and shall be known as the North Kaukauna precinct, and the other to comprise wards three, four and five, and shall be known as the South Kaukauna precinct, and the places of holding elections shall be designated by the common council, at least two weeks prior to any election, at which time the clerks of election shall be appointed. The inspectors of election, numbering three for the North Kaukauna precinct, shall be chosen from the aldermen and supervisors of the first and second wards, and the inspectors of the South Kaukauna precinct, numbering three, shall be chosen from the aldermen and supervisors of the third, fourth and fifth wards, and these appointments shall be made by the common council. The common council of said city shall provide for five ballot boxes, numbered one, two, three, four and five, to designate the number of wards, and for each such ward one clerk of election shall be appointed, to keep a poll book for each ward separately. Every person on presenting his ballot, shall give his name and the number of the ward in which he resides, and the clerk of the election, who has charge of the poll list of the ward in which he resides, shall enter the name on the list, numbered so as to correspond with the number of ward of which said person is a resident. The general election laws of Wisconsin shall be adhered to in every respect, excepting as specially provided for in this chapter.

Counting and canvas of votes.

SECTION 7. When the polls of election shall have been closed, the inspectors, without adjourning, shall canvas 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 return shall by them be delivered, together with the oaths of inspectors and clerks, and the poll list kept by them, to the city clerk, to be filed in his office within twenty-four hours after closing the polls.

SECTION 8. On Thursday next after the election herein provided for in each year, the common council, shall, at its hour of regular meeting, assemble at the council rooms to canvas the returns of the previous election, and determine by a majority of their votes, who are elected for each of the city and ward officers, as were voted for. A report of such determination shall be signed by it, or a majority of it, and entered upon the minutes of said common council, and within twenty-four hours thereafter, the city clerk shall notify the different persons of their election to such office, and shall certify to the clerk of the circuit court, and county clerk of Outagamie county, to the names of the persons so duly elected, as the law requires. The municipal election for ward and city officers shall be held on the first Tuesday in April in each year. The first municipal election for the year A. D. 1885, shall be ordered by the following named persons, who are also appointed as inspectors of elections pro tem. M. L. Schwinn, George F. Butler and James Simons, for the North Kaukauna precinct, and A. A. Kern, C. W. Walker, and John Coenen for the South Kaukauna precinct. The following clerks are appointed: Isaac Johnson, for the first ward, Thomas Reese for the second ward, C. B. Krebs for the third ward, John Dietzler for the fourth ward, and Seymor Beach for the fifth ward, all of whom shall qualify as prescribed by law, and in conformity with the provisions of this chapter. The polls shall be open from nine o'clock in the forenoon or as soon thereafter as may be, till sunset, and ten days' notice shall be given by the city clerk of the time and places of holding such election, and of the officers to be elected, by publishing a notice in the official paper of the city, and posting up notices in at least two public places in each ward.

Determination
by council of
officers elected.

SECTION 9. All elections by the people shall be by ballot, and a plurality of the votes shall con-

Elections shall
be by ballot. —

stitute an election. In case of a tie vote, lots may be cast in the presence of the common council, and in such a manner as it may direct. All persons who are qualified electors of the state of Wisconsin, and who shall reside in the ward where they offer their vote, ten days next preceding such election, shall be deemed qualified electors of said city and ward.

CHAPTER III.

OFFICERS—THEIR POWERS AND DUTIES.

Officers to subscribe oath of office.

SECTION 1. Every person elected or appointed to any office under this act, except justices of the peace, shall before he enters upon the duties of his office, take and subscribe an oath of office and file the same, duly certified by the officer taking the same, with the city clerk, and the clerk, marshal, constables, and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Kaukauna, a bond with at least two sureties, who shall swear that they are each worth the penalty specified in said bond, over and above all debts, exemptions or liabilities, and said bond shall contain such penal sums and such conditions as the common council may deem proper. The treasurer, before entering upon the duties of his office, shall also execute a bond with at least two, nor more than six sureties. The penal sum, expressed in such bond, shall exceed the amount of the last annual tax roll, and each surety shall swear that he is worth a certain amount, over and above all debts, liabilities and exemptions, and the aggregate of such amounts shall, at least, exceed the penal sum specified in the bond. The council may from time to time, require new or additional bonds from the treasurer or any other officer of the city, and the council may remove from office any officer refusing or neglecting to give the same.

The mayor and his duties

SECTION 2. The mayor shall, when present, preside over the meetings of the common council. He shall take care that the laws of the state, and the ordinances of the city and the by-laws for the government of the council are duly observed, and enforced, and that all other executive officers of

the city discharge their respective duties. He shall from time to time give the common council such information, and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city. In case of a riot or other disturbances, he may appoint as many special or temporary constables as he may deem necessary. The mayor shall have a vote in the council, only in case of a tie [and] when the council shall be engaged in the election of any officer; the mayor shall have a vote the same as any alderman.

SECTION 3. In case the mayor shall be absent from any meeting of the common council, it shall proceed to elect from their own number a temporary presiding officer, who for the time being shall discharge the duties of the mayor. The presiding officer, while presiding over the board or performing the duties of mayor, shall be styled "acting mayor," and any acts performed by him shall have the same force and validity as if performed by the mayor.

Temporary presiding officer.

DUTIES OF CLERK.

SECTION 4. The clerk shall keep the corporate seal, and all the papers and records of the city, and keep a record of the proceedings of the common council, at whose meetings it shall be his duty to attend, and copies of all papers filed in his office, and transcripts from the records of the common council, certified to have been compared by him with the original, and to be a correct transcript therefrom, under the corporate seal, shall be evidence in all courts, in like manner as if the originals were produced. He shall draw and countersign all orders on the treasury in pursuance of any order or resolution of the common council, and keep a full and correct account thereof in books provided for that purpose. He shall file in his office all chattel mortgages presented to him for that purpose, and the renewals thereof, and safely keep the same, receiving therefor the same compensation of clerks of towns. And chattel mortgages so filed, and the renewal thereof, shall be as valid and legal as if the same had been filed in the town clerk's office in any town. The clerk shall have power and authority to administer oaths and affirmations.

Duties of clerk.

ASSESSOR—HIS DUTIES.

The assessor
and his duties.

SECTION 5. The assessor shall assess all the taxable property of the city of Kaukauna, as required by law, and shall complete and return his assessment roll in the manner hereafter provided, and receive such compensation as shall be fixed by the common council.

THE TREASURER—HIS DUTIES.

The treasurer
and his duties.

SECTION 6. The treasurer of said city shall perform such duties and exercise such powers as may be required of him, by the ordinances of said city and the laws of this state. He shall receive all moneys belonging to the city, and keep an accurate and detailed account thereof, and of each fund separately, together with account of all disbursements in suitable books to be provided for this purpose, and in such manner as the common council may direct. At the first regular meeting of the common council in each month, he shall make a report embracing a statement in detail of the receipts and disbursements in his office, since the last preceding monthly report, an account of the general fund and of each fund which he is required to keep distinct and separate from other funds in the city treasury, and also the total receipts and disbursements during the same time, and the condition of each of said funds at the date of such report; such reports, when made, shall be published with the proceedings of the common council. No personal property tax shall be returned by the city treasurer to the county treasurer, but the city treasurer shall have the same power to collect said personal property tax as is now conferred by law upon county treasurers for the collection of personal property taxes. He shall disburse none of the money belonging to any of the funds of the city, except by an order therein duly issued by directions of the common council, which order shall be signed by the mayor and countersigned by the clerk; provided that the school fund may be drawn out as provided by other provisions of this act. He shall collect all general and special taxes and assessments which may be levied or assessed upon the real and personal property in the city, and exercise the same powers and be governed by the same laws, and be

subject to the same liabilities as treasurers of towns, except when a special duty or direction is imposed by this act. The common council shall, at its last meeting in March, fix the salary of the treasurer to be elected at the next ensuing election, and the salary so fixed shall not be increased or diminished during the term. All sums received by the treasurer as fees, shall be paid by him into the city treasury, and when required by the common council he shall make report under oath of all fees or other moneys received by him as treasurer. On the third Monday of March in each year, he shall file in the office of the city clerk a statement showing in detail the monthly receipts and disbursements of the preceding year, an account of each separate fund, and the condition of such funds at the date of the report.

JUSTICES OF THE PEACE.

SECTION 7. There shall be two justices of the peace elected by the city at large under this act, one to hold his office in North Kaukauna and one in South Kaukauna; they shall each hold their offices for the term of two years and until their successors are elected and qualified. They shall have the same jurisdiction and perform all the duties of justices of the peace; and shall qualify in the same manner, except that the official bonds or agreements shall be approved by a majority of the common council. They shall in addition of such jurisdiction as is conferred by law upon justices of the peace have concurrent jurisdiction in all cases arising under this act, and the ordinances, resolutions and by laws passed by said city council. Their fees shall be governed by the general laws concerning the fees of justices of the peace, but they shall not be furnished by said city, nor shall they receive any perquisites or compensation from said city, except so far as the city may become liable to them for fees as a party to a suit before them. They shall as often as the common council may require, report to the common council all the proceedings instituted before them in which the city is interested; and shall at the same time account for and pay over to the city treasurer all fines and penalties collected by them and belonging to said city.

The justices of the peace and their duties.

MARSHAL'S DUTIES, ETC.

The marshal
and his duties.

SECTION 8. The marshal shall perform such duties as shall be prescribed by the common council, for the preservation of the public peace and collection of license moneys and fines. They shall possess all the powers of the constables of towns and be subject to the same liabilities. It shall be the duty of marshals so appointed to execute and return all writs and processes to them directed, and when necessary in criminal cases or for any violation of any ordinance of said city or laws of this state, may pursue and serve the same in any part of the state. It shall be their duty to suppress all riots and disturbances and breaches of the peace, and to remove or cause to be removed, all obstructions in the streets and alleys of said city, and to abate all nuisances in said city, to apprehend any person in the act of committing any offense against any ordinance of said city, or laws of this state; and within reasonable time bring such person before competent authority for examination; and for such services they shall receive the same fees as are allowed by law to constables of towns for like services; and such further compensation as the common council may allow.

CITY ATTORNEY—HIS DUTIES.

The city attorney
and his
duties.

SECTION 9. The city attorney shall be a person duly admitted to practice in the courts of record, conformably to the laws of this state. It shall be his duty to conduct all the law business of the corporation; he shall, when required, furnish opinions on subjects connected with the welfare of the corporation, submitted to him by the common council or any of its committees; he shall keep a docket of all cases to which the city may be a party, in any court of record, in which shall be briefly entered all steps taken in each cause, which docket shall be the property of the city, and shall at all times be open to the inspection of the mayor or any committee of the common council. It shall also be the duty of the city attorney to draft all general ordinances, all bonds, contracts, leases, conveyances and other instruments of writing that may be required by the

business of the city, and to perform all other duties as may be prescribed by the charter and ordinances. He shall receive an annual salary to be fixed by the common council.

STREET COMMISSIONERS.

SECTION 10. The street commissioner shall see that all ordinances of the city, relating to the obstruction and cleaning of sidewalks, streets, bridges, alleys, public grounds, reservoirs, sewers, gutters and water of the rivers in said city, are duly observed and kept, and to control the persons employed therein. They shall have the general supervision of all work let by contract for the making, grading, paving, gravelling, planking and repairing and cleaning of streets, bridges, alleys, public grounds, reservoirs and gutters unless the common council shall otherwise direct. They shall receive such compensation as the common council may determine.

The street commissioner and his duties.

CONSTABLES.

SECTION 11. The constables elected under this, shall have the same jurisdiction as other constables, and shall qualify in the same manner as constables elected in duly organized towns, except the official bond of such constable shall be approved by the mayor, and filed with his oath of office in the office of the city clerk.

The constables and their duties.

ALDERMAN.

SECTION 12. No alderman shall be a party to, or interested in any job or contract with the city or any of the wards, and any contract in which any alderman may be so interested shall be null and void; and in case any money shall have been paid on any such contract, the common council may sue for and recover the amount so paid from the parties to such contract, and the alderman interested in the same.

Respecting aldermen.

CHAPTER IV.

THE COMMON COUNCIL.

SECTION 1. The mayor and aldermen shall constitute the common council; and the style of all

The common council.

ordinances shall be, "The common council of the city of Kaukauna do ordain, etc."

When the common council shall meet.

SECTION 2. The common council shall meet on the second Tuesday of April in each year for the purpose of organizing and the transaction of such other business as shall come before them under the provisions of this act; on the first Tuesday in December for the purpose of levying taxes; on the last Tuesday in March to audit all accounts of officers and all claims against the city; and hold stated meetings at such times and places as it shall appoint; and the mayor may call special meetings by notice to each of the members, to be served personally or left at his usual place of abode, which notice shall specify the object of the meeting and the business to be transacted, and no other business shall come before such meeting. The common council shall determine the rules for its own government and proceedings. A majority of the aldermen elected shall constitute a quorum for the transaction of business, but a smaller number may adjourn; its sessions shall be open and public; its proceedings shall be recorded in full, and all its papers and records, and all election returns, shall be deposited with the clerk of the common council, and the same may be examined at any time in the presence of the clerk. The common council shall be the judge of the election and qualification of its own members, and may punish its members or other persons present, by fine or otherwise, for disorderly behavior or contempt; may compel the attendance of its members upon its sessions, and may fine or expel any member for neglecting his duty as such member, or for unnecessary absence from its sessions.

Duties of common council.

SECTION 3. The common council shall have the management and control of the finances, except school moneys, and of all other property of the city, and shall likewise, in addition to all other powers herein vested in it, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all ordinances, rules, resolutions and by-laws for the government and good order of the city, for the suppression of vice, for the prevention of crime, and for the benefit of the trade, commerce and health thereof, and for carrying into effect the powers vested in said common council; and to

declare and impose penalties, and to enforce the same against any person or persons who may violate any of the provisions of said ordinances, rules, by-laws and regulations; and such ordinances, rules, regulations and by-laws are hereby declared to be and have the force of laws; provided, that they be not repugnant to the constitution and laws of the United States and of this state, and for these purposes shall have authority by ordinance, resolution or by-law:

1. To license and regulate the exhibition of common showmen and shows of any kind, or the exhibition of caravans, circuses, or theatrical performances, billiard tables, bagatelle tables, pigeon hole tables, bowling saloons, and other places of public amusement, and to provide for the abatement and removal of nuisances under the ordinances or at common law, and to grant licenses for selling spirituous, vinous or fermented liquors and to regulate and license groceries, taverns, victualling houses, and all persons vending or dealing in spirituous, vinous or fermented liquors, and to revoke the same for a violation thereof; provided, that the sum to be paid for any such license shall not be less nor more than the amount per annum established by the general laws of the state of Wisconsin, and that all such licenses hereafter granted shall run from the first day of May in each year; provided, however, that when any license may be applied for after that date the same may be granted to expire on the first day of May following, and the applicant paying pro rata therefor; but no license shall be granted for a longer time or period than one year.

May issue licenses.

2. To suppress, restrain and prohibit all description of gambling and fraudulent devices or practices, and all playing of cards, dice or other games of chance, with or without betting, and restrain, prohibit and suppress any person or persons from vending or giving away for the purpose of evading the law, or dealing in spirituous, fermented or vinous liquors, unless duly licensed by the common council, and to authorize the seizure and destruction of all instruments used for the purpose of gaming.

Suppression of vice.

3. To prevent or regulate the blowing of steam whistles, and prevent riots, noise, disturbances or

To prevent riots, disturbance, etc.

disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill-fame.

Shooting fire-arms, etc.

4. To prevent the shooting or discharging of fire-arms or fire-crackers, squibs or torpedoes, and to prevent the exhibition of fire-works in any situation which may be considered by the common council dangerous to the city or any inhabitants or property therein, or annoying to the citizens thereof.

Immoderate riding or driving.

5. To prevent horse racing and immoderate riding or driving in the streets, and to prohibit and punish the abuse of animals, and to compel persons to fasten their horses, oxen or other animals attached to vehicles or otherwise while standing or remaining in any street, alley or public ground within the city.

Estrays.

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

Running at large of dogs.

7. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner when at large contrary to the ordinance.

Establish pounds, pumps etc.

8. To make and establish public pounds, pumps, wells, cisterns and reservoirs.

Encumbering of streets, etc.

9. To prevent the encumbering of streets, sidewalks, lanes or alleys with railroad cars, locomotives, engines, carriages, carts, wagons, sleighs, sleds or any other vehicle, boxes, lumber, wood, or other materials or substances whatever.

Riding or driving on sidewalks.

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

Removal of rubbish, etc.

11. To compel the owners or occupants of buildings and grounds to remove snow, dirt, rubbish from the sidewalks, streets or alleys opposite thereto, and to compel such owner or occupant to remove from any lot owned or occupied by him all such substances, as the board of health shall direct; and in his default to authorize the removal or destruction thereof at the expense of such owner or occupants.

Lighting of streets, etc.

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

13. To protect monuments in the city, and

direct and regulate the planting and preservation of trees in the streets and public grounds.

Monuments
and trees.

14. To provide cemetery grounds, may buy and hold cemetery grounds outside of the city limits, regulate the burial of the dead, and the return of bills of mortality, and exempt burial grounds, set apart for public use, from taxation.

Cemetery.

15. To establish and regulate boards of health, and to define their powers and duties.

Board of
health.

16. To erect or establish one or more pest houses, hospitals and dispensaries, and to control and regulate the same.

Pest houses, etc

17. To regulate, control and prevent the landing or bringing into the city, by railroad cars or otherwise, of persons sick or infected with contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of the city, and also to make regulations to prevent the introduction of contagious or infectious diseases into the city or their spread therein, and to make quarantine laws and regulations, and enforce the same within the city and not exceeding two miles beyond the city limits.

Contagious dis-
eases.

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

Removal of
nuisances.

19. To direct the location of slaughter houses and markets.

Location of
slaughter
houses.

20. To prevent persons from bringing or depositing within the city any putrid carcass or unwholesome substance, and to require the removal of the same by any person who may have upon his premises any such substance or putrid or unsound beef, pork, fish, hides, or skins of any kind, or on default to authorize the removal thereof, by some competent officer, at the expense of such person or persons.

Putrid car-
casses and re-
moval of same.

21. To determine what are nuisances and to prevent, abate and remove the same.

Abatement of
nuisance.

22. To regulate the keeping and conveying of gunpowder, camphene, burning fluid and other

Storage of gun-
powder.

combustible and dangerous materials and the use of candles and lights in barns and stables.

Bathing and swimming.

23. To regulate and determine the time and places of bathing and swimming in the river, canals or other waters in and adjoining said city, and to prevent any obscene or indecent exhibition, exposure or conduct.

Punishing vagrants, etc.

24. To restrict and punish vagrants, mendicants, street beggars and prostitutes; and to restrain drunkenness or obscenity in the streets or public places, and to provide for the arresting, removing and punishing of any person or persons who may be guilty of the same.

Arrest of vagrants, etc.

25. To authorize the arrest, fine and imprisonment as vagrants of all persons who, not having visible means to maintain themselves and without employment, idly loitering or rambling about or staying in groceries, drinking saloons, houses of ill-fame, or houses of bad repute, gambling houses, or who shall be found trespassing in the night time upon the private premises of others, or begging or placing themselves in the street or other thoroughfare or public place to beg or receive alms; also keepers, exhibitors, or visitors at any gambling table, gambling house or other place of device, and all persons who go about for the purpose of gaming, or who shall have in their possession any article or thing used for obtaining money under false pretenses, or who shall disturb any concert, theatre, or other public entertainment, or place where public or private schools are held, either week days or Sundays, or places where religious worship is held.

Carrying of fire-arms, etc.

26. To regulate and prohibit the carrying or wearing by any person, under his clothes or concealed about his person, of any pistol, sling shot or knuckles, bowie knife, dirk or dagger, or any other dangerous or deadly weapon, and to provide for the confiscation or sale of such weapons.

Public markets, etc.

27. To establish public markets, and make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to punish or restrain all persons for interfering with the due observance of such rules and regulations.

Weight and size of bread.

28. To establish the weight and size of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

29. To regulate and license butchers, butchers' shops and meat markets, and to regulate, license and restrain the sale of any goods, wares, merchandise, game, poultry, fresh meat, vegetables, fish, butter, eggs, and other provisions, in the streets and other public grounds of the city, and to cause the seizure and destruction of tainted or unwholesome meat, butter, vegetables, fruit or provisions.

License butch-
er shops, etc.

30. To regulate the place or places and manner of weighing or selling hay, and measuring and selling fuel, lime and other gross commodities, and to appoint suitable persons to superintend and conduct the same,

Weighing or
selling hay.

31. To provide for a standard of weights and measures, and for the punishment of the use of false weights and measures, by fine or otherwise.

Standard of
weights and
measures.

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

Auctions and
vendues.

33. To tax, license and regulate auctioneers, pawnbrokers, distillers and brewers, and to tax, license, regulate and restrain hawkers and peddlers, keepers or proprietors of gift-book stores, gift concerts and other gift enterprises.

Licenses.

34. To regulate, license and suppress omnibus drivers, hackmen, coachmen, cabmen, cartmen, draymen and all others who may pursue like occupations in this city, and to prescribe their compensation.

License and
suppress omni-
bus drivers.

35. To restrain and regulate runners and solicitors for stages, cars, public houses and other establishments.

Restrain run-
ners.

36. To control, regulate, repair, amend, clear the streets and alleys, bridges, and side and cross walks, and lay out, open, widen, straighten, alter and vacate streets and alleys, and establish and alter the grade thereof, and protect the same from any encroachment or injury.

Control of
streets.

37. To provide for and regulate the construction of gutters and sewers within the city.

Regulate con-
struction of
gutters.

38. To regulate or prohibit the keeping of any lumber-yard, and the placing, piling, or selling of lumber, timber, wood or other combustible materials within the limits of the city.

Regarding lum-
ber yards.

39. To preserve the river and canals; to prevent any use of the same, or any act in relation thereto inconsistent with or detrimental to the public health, or calculated to render the waters

Preserve rivers
and canals.

of the same, or any part thereof, impure or offensive, or tending in any degree to fill up or obstruct the same; to prevent and punish the casting or depositing therein of any earth, ashes, dead animals, or other substance, or logs, or floating matter; to prevent and remove all obstructions therein, and punish the authors thereof.

Watchmen and policemen.

40. To appoint watchmen and policemen, and to establish and regulate the police of the city, and prescribe their duties.

Watch houses.

41. To purchase, place, build, or lease and maintain a watch house or place for confinement of offenders against the ordinances and by-laws, and for temporary detention of suspected persons.

Purchase and hold real estate.

42. To receive, purchase and hold for the use of the city, any estate, real or personal, to sell and convey, to provide for the erection of a city hall, engine houses and other necessary public buildings, and to insure any property of the city against loss or damage by fire, lightning, wind or hail.

Numbering blocks.

43. To re-number the lots and blocks of the city or any part thereof, and to cause a revised and consolidated plat of the same to be made and recorded in the office of the register of deeds.

Establish fire department.

44. To establish and maintain a fire department as hereinafter provided.

Regulate the running of cars and engines.

45. To regulate the running of engines and railroad cars within the limits of the city, and to compel railroad companies to station flagmen at such crossings as in the opinion of the common council may be necessary for the safety of life and property.

Boundaries of school district.

46. To consolidate or change the boundaries of school districts in said city under the same restrictions and with the same power as is now conferred on town boards under the general laws of this state.

Call of special elections.

47. To call a special election for the purpose of raising a tax, when in their opinion the amount which they are authorized to raise by the provisions of this act is insufficient to meet the requirements.

Make and repeal of ordinances, etc.

48. To make, ordain, amend and repeal all such ordinances, by-laws and police regulations not contrary to the constitution of this state (necessary) for the good order and government of

the city, and which may be necessary or expedient to carry into effect the powers vested in the mayor and common council or any officer of said city by this act, or which may be vested in any officer of said city by any ordinance, regulation, resolution or by-law thereof.

SECTION 4. All laws, ordinances, regulations, resolutions and by-laws shall be passed by an affirmative vote of a majority of the common council, and shall be signed by the mayor, and shall be published at least once in some newspaper published in said city, or posted in three public places in said city before the same shall be in force, and within fifteen days thereafter they shall be recorded by the city clerk in a book provided for that purpose; but before any of the said laws, ordinances, regulations, resolutions or by-laws shall be recorded, the publication thereof shall be proved by the affidavit of the publisher or foreman of such newspaper, or by the affidavit in writing of the officer or person posting the same, which affidavit should be recorded therewith, and at all times and in all courts and places such record shall be deemed and taken as evidence of the passage and publication or posting of such law, ordinance, regulation, resolution or by-law. Such record of such law, ordinance, regulation, resolution or by-law, or a copy of such record, certified by the city clerk under the seal of the city, or a newspaper or any printed book or pamphlet containing the same, purporting to have been published by authority of the common council shall be *prima facie* evidence of the due passage and publication or posting of such law, ordinance, regulation, resolution or by-law. No ordinance shall be passed, no appropriation shall be made, and no act, regulation, resolution or order which may create a debt or liability against said city, or a charge upon any fund thereof shall be adopted with [without] the affirmative vote of a majority of the common council elect, which vote shall be taken by ayes and noes and duly entered of record.

Passage of laws, ordinances, etc.

SECTION 5. No law, ordinance, regulation, resolution or by-law requiring the signature of the mayor, shall take effect until seven days after the passage of the same, unless sooner approved in writing by the mayor.

When laws shall take effect.

Power of veto.

SECTION 6. The mayor shall have power to veto any resolution, act or ordinance passed by the common council, by notifying the common council of his objections thereto, at any time within seven days after the passage of the same. In case of no session of the council on any day after the passage of the same, and before the expiration of the said seven days, such notification shall be made by filing with the city clerk a copy of his objections, and in case the council shall not, at its next regular meeting or special meeting called for that purpose, re-enact such ordinance, or pass such act or resolution by a vote of two-thirds of the aldermen elected, the same shall be null and void. If the mayor shall not return any ordinance, act or resolution so presented to him within seven days after the passage thereof, it shall take effect in the same manner as if he had signed it.

Power conferred shall not bar or hinder suits.

SECTION 7. The power conferred upon said common council, to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Gambling houses, houses of ill-fame, disorderly taverns, and houses or places where spirituous, vinous, or fermented liquors are sold without the license required thereof, houses or buildings of any kind wherein nitro-glycerine or more than one hundred pounds of gunpowder or other explosives are deposited, stored or kept, at any one time, are hereby declared and shall be deemed nuisances.

Examine and adjust accounts.

SECTION 8. The common council shall examine, audit and adjust the accounts of all officers or agents of the said city, and all other claims against the said city at such time as it may deem proper, also on or before the last Tuesday in March, in each year; and the common council shall require each and every officer or agent of said city to exhibit his books, accounts and vouchers for such examination and settlement, and if any officer or agent shall refuse to comply with orders or requirements of the common council in the discharge of their duties in pursuance of this section, or shall neglect or refuse to render their accounts or present their books and vouchers to said council, it shall be the duty of said council to declare the office of such person vacant; and the common

council shall order suits and proceedings at law against any officer or person or agent of said city who may be delinquent or defaulting in his accounts or discharge of his official duties and shall make a full record of all such adjustments and settlements. No account shall be allowed by the common council unless the same is properly verified by the oath of the owner thereof, or some person in his or her behalf, except it be for street work or hire under the supervision of a street commissioner duly certified by him.

SECTION 9. No action shall be maintained by any person against the city of Kaukauna upon any claim, unless the same shall have been duly presented to the common council of said city. The determination of the common council disallowing in the whole or in part any such claim or demand shall be final and conclusive, and a perpetual bar to any action in any courts, founded on such claim or demand, unless an appeal shall be taken from the decision and determination of such common council as hereinafter provided, or unless such common council shall consent and agree to the institution and maintenance of an action by such claimant against the city; provided, however, that when the common council shall refuse or neglect to act upon any such claim or demand, duly presented to it, this chapter shall be so construed as to prevent the institution and maintenance of an action by said claimant against said city.

When action may be maintained.

SECTION 10. When the claim or demand of any person against the city shall be disallowed in whole or in part by the common council, such person may appeal from the decision of such council to the county court for the county of Outagamie, by causing a written notice of such appeal to be served on the city clerk within twenty days after the making of such decision, and executing a bond to said city, with sufficient surety to be approved by said clerk, the county judge or a court commissioner, conditioned for the faithful prosecution of such appeal, and the payment of all costs that shall be adjudged against the appellant by the court; provided, that if the case be such that the said county court have not jurisdiction, the appeal may be taken to the circuit court of said county of Outagamie in the

In case claim is disallowed further actions.

same manner as is hereinbefore provided for appealing to the county court.

Notice of appeal how made.

SECTION 11. The city clerk upon such appeal being taken, shall immediately give notice thereof to the city attorney, or shall take such measures as by ordinance or resolution of said common council he may be required to do, and shall make out a brief return of the proceedings in the case before said council; with their decision thereon, and shall file the same together with the bond and all papers in the case in his possession, with the register in probate or with the clerk of circuit court as the case may be, for said county of Outagamie and such appeal shall be entered, tried and determined in the same manner as actions originally brought in said court, and costs shall therein be awarded in like manner; provided, however, that whenever an appeal is taken from the allowance made by the common council upon any claim or demand, and the recovery upon such appeal shall not exceed the amount allowed by said council exclusive of interest, upon such allowance, the appellant shall pay the costs, which shall be deducted from the amount of the recovery, and when the amount of costs exceeds the sum recovered, judgment shall be rendered against the appellant for the amount of such excess.

CHAPTER V.

FINANCE AND TAXATION.

Finance and taxation.

SECTION 1. All funds in the treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn out upon the order of the mayor and clerk, duly authorized by a vote of the common council, and all orders upon the treasurer shall specify the purpose for which they were drawn, and shall be payable out of any fund in the treasury belonging to said city. City orders shall be receivable for all city taxes except school and special taxes, for bridges and school purposes, and except taxes levied for the payment of the principal or interest of any outstanding indebtedness of said city, which shall be collected in money or in orders drawn upon such fund re-

spectively; and all orders shall be payable to the person or to the order of the persons in whose favor they may be drawn.

SECTION 2. The common council of said city shall annually levy upon the taxable property of said city, on the first Tuesday of December in each year, by resolution, such tax or such sums as may be sufficient for the several purposes for which taxes are herein authorized to be levied, but not exceeding the authorized percentage, and particularly specifying the purposes for which the same are levied to defray the current and lawful expenses of said city, and for the payment of principal and interest of outstanding bonds a tax sufficient to defray the same; provided, said common council shall not levy in any one year a tax of more than two per cent. on the dollar valuation of the taxable property of said city, and not less than seven mills nor more than fifteen mills for highways and street purposes, unless authorized to raise a greater sum by a majority vote of the electors of said city at a general or special election.

Levy of taxes.

SECTION 3. The common council shall not have power to issue any bonds or other evidence of debt payable at a day subsequent to the date of the issue thereof, except in cases especially authorized by law, nor shall the common council issue in any one year orders upon the city treasurer to an amount greater than the amount of taxes which may be levied under the provisions of this act; provided, that whenever it shall be necessary to rebuild or repair bridges, a special tax may be levied for such purposes, not exceeding two thousand dollars in any one year; said taxes, when so levied, shall be collected at the same time, and for such purposes only as other city taxes are collected.

No power to issue bonds except as provided by law.

SECTION 4. Special taxes may also be levied by the common council at any regular meeting for the purpose of paying the interest or principal of any outstanding bonds due, or hereafter to become due, which are and may be issued by said city by authority of law; provided, however, no greater tax in any one year be levied than shall be necessary to pay the amount which will be due on such bonds at the time such tax shall be collectible by virtue of this act, or shall become due

Levy of special taxes how made.

before the time appointed by law for assessing and levying the annual taxes; said taxes, when so levied, shall be collectible at the same time as other city taxes are collected.

CHAPTER VI.

OPENING OF STREETS, ALLEYS, ETC.

Opening of streets, alleys, etc.

SECTION 1. The common council shall have power to take for the use of the city, in the manner hereinafter provided, any lots or any land for public squares, grounds, streets and alleys, and to widen, or straighten the same, or for the purpose of erecting a public hall, market house, fire engine house, or any other lawful municipal purpose, or for erecting hospitals or pest houses for the prevention of contagious or infectious diseases within the city, or for any needful or convenient purpose in connection with, or to execute and accomplish any other power, right or privilege conferred on or granted to the city by its charter, or any act amendatory thereof, or by any act of the legislature, and may take the same, and whether within or without the city, by conveyance from the owner upon a bargain, or upon a donation thereof, or in a manner as follows: Whenever it shall, in the opinion of the common council, be necessary, said council shall declare by resolution that it is necessary to take any such lots or lands, for any of the purposes above set forth, giving description of the premises, defining separately each parcel thereof, and the purpose for which they are to be taken. The common council shall thereupon cause a written notice, as prescribed in the next section, to be served upon the occupant or occupants of such lands, and the owner or owners of the same, if the place of residence of such owner or owners is known or can be ascertained by reasonable diligence when such residence is within this state, and in case such owner or owners are non-residents of this state, or their place of residence after due diligence by the city attorney of said city cannot be ascertained, which fact shall be made to appear by his affidavit, then the common council shall cause service of such notice to be made on such non-

resident owner or owners, or on the owner or owners, the residence of whom cannot be ascertained, by causing the same to be published for six weeks in a newspaper published within the county of Outagamie, at least once each week, and by causing such notice to be mailed postpaid to the address of such owners within five days from the time of the first publication of such notice, when the post-office address of such owner is known.

SECTION 2. Such notice shall be signed by the city clerk or city attorney, and shall state the adoption of the resolution and embrace a copy thereof, and further that at a time and place therein named, not less than ten days after the service of such notice, or the expiration of such publication, as the case may be, application will be made to the county judge of said county of Outagamie, for a jury to inquire and determine whether it is necessary to take the land or any part thereof, described in such resolution, for the purposes therein specified. Such notice shall further state the time and place at which such jury will be applied for, to meet and discharge such duty, and the judge aforesaid shall fix the time and place so named in the precept hereinafter mentioned, and no other notice thereof shall be necessary.

By whom notice shall be served and mode of procedure.

SECTION 3. At the time fixed in said notice for the appointment of such jurors, the judge named in said notice, upon proof of the service of the same on the owner or owners of the premises described in such notice, which proof shall be in the same manner as is now required to make proof of the service of a summons in civil actions in courts of record in this state, shall appoint twelve competent persons having the qualification of jurors in and for the county of Outagamie, and not residents of the ward in which such premises are situated, not interested in such application, but residents of the city shall not be disqualified. The same rights of challenge peremptorily, or for favor or cause may be exercised by the city attorney and by such land owner whose land is sought to be taken by his agent or attorney, as a party to a civil action in a circuit court is entitled to have; and the judge shall decide the same in like manner, and replace the name of any juror, success-

Selecting a jury to act in condemning land etc.

fully challenged, by the name of some other competent person, until a jury of twelve be chosen. The said judge shall thereupon issue his precept directed to such jurors, requiring them and each of them to appear before him, on the day named in the notice for such jurors to meet for the discharge of their duties under such appointment. The precept so issued may be served by the sheriff of said county, or by any public officer of said city. The jurors so chosen, shall before entering upon the performance of their duty, take an oath before such judge faithfully and impartially to discharge their duties as such jurors, and a true verdict give, whether it is necessary to take such land, or any part thereof, mentioned in such resolution for the purposes therein specified.

Disqualification of jurors.

SECTION 4. If any of the jurors so appointed shall be disqualified from acting, or shall refuse to act, the judge shall appoint others in their places, and a memorandum of such substitution shall be indorsed on the precept.

Viewing the premises.

SECTION 5. The said jurors, shall forthwith under the direction of said judge, proceed in a body to view the premises in question, and shall hear such testimony as may be offered by any party interested, whose testimony shall be reduced to writing by said judge; and either of the jurors shall be authorized to administer the necessary oaths to witnesses.

Deliberation of jury how conducted.

SECTION 6. After having made such view and heard such testimony as shall have been produced, the said jury shall, under direction of said judge, deliberate apart and return their unanimous verdict in writing, signed by them, in which they shall find and state whether it is necessary to take the whole of the lands described in such resolution for the purpose therein specified, or any part thereof, describing particularly the part to be taken, if they find only a part thereof so necessary. Such verdict, with all the papers, proceedings and testimony had before him and said jury, shall then be forthwith filed by said judge with the clerk of the circuit court for Outagamie county, together with a certificate by said judge that the same are the originals and the whole thereof. The clerk shall, on application, furnish a certified copy of the same or any part thereof, which shall have the same force and effect as the

originals. In case any jury called under the provisions of this charter, shall disagree, another jury shall be forthwith selected in like manner, and all the like proceedings thereafter had as hereinbefore provided for the first jury, except that the said judge shall fix a reasonable time for the assembling of such jury in the precept therefor, but no further notice thereof shall be necessary to any party. A third jury shall not be called except by the direction of the common council.

SECTION 7. Should the necessity for the taking of the premises or any part thereof, mentioned in the resolution of the council be so established by the verdict of the jury, then the common council may enter an order directing the city attorney to proceed to procure, to be assessed and appraised the damages to the owner or owners of the premises so found necessary to be taken, by reason of the taking of the same for the purpose specified. The city attorney shall thereupon make application to the judge of the circuit court or judge of the county court of Outagamie county, briefly setting forth that the necessity for taking the premises has been so established by the verdict of a jury, and praying the appointment of three commissioners to appraise the damages of the owner or owners of such lands, and showing the amount of land, giving the metes and bounds thereof, the purpose for which the same is to be taken, and the names of the several owners so far as the same are known to the city attorney. Five days' notice of the time and place when such application will be presented to such judge, accompanied with a copy of such application, shall then be served on each owner in the cases when required and in the manner provided in section 1, of this chapter. At the time and place designated, such judge shall hear all parties interested who appear, and shall appoint three disinterested and reputable freeholders of said county as such commissioners, by his order in writing, to ascertain and appraise the compensation to be made to the owners of, or persons interested in the land, so found necessary to be taken, and fix the time and place for the first meeting of said commissioners.

In case the necessity for taking the verdict be established.

SECTION 8. If there should be any building

Procedure when there is any building standing.

standing, in whole or in part, upon the lands to be taken, the commissioners, before proceeding to make their assessment, shall first estimate and determine the whole value of such building to owner, aside from the value of the land, and the injury to him in having such building taken from him; and secondly, the value of such building to remove.

Personal notice of determination to be given.

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

In case the owner refuses to take the building at the value to remove.

SECTION 10. If the owner refuse to take the building at the value to remove, or fail to give notice of his election as aforesaid within the time prescribed, the council shall have power to direct the sale of such building at public auction, for cash, giving ten days' notice of such sale. The proceeds shall be paid to the owner or deposited for him in the city treasury.

Procedure when the buildings belong to different persons.

SECTION 11. If the lands or buildings belong to different persons, or if the lands be subject to lease, judgment or mortgage, or if there be any estate in it less than estate in fee, the injury done to such person or interest respectively, may be awarded to them by the commissioners, less the benefits resulting to them respectively from the proposed improvement.

Majority of commissioners shall rule.

SECTION 12. A majority of the commissioners appointed shall be competent to determine all matters before them; and they shall within twenty days after viewing any of the lands so taken, make and file in the office of the clerk of the cir-

cuit court of said county, a report of their proceedings, concerning such lands, setting forth the award made for each tract or parcel thereof, or separate estate therein, to the owner or owners thereof. Whenever the commissioners shall have completed their duties the common council may by resolution order such improvements to be made and the land which has been so found necessary to be taken therefor, to be taken and used; and in such case the city shall be absolutely liable to the owner or owners, or parties entitled thereto for all compensation that may be established against the city therefor; and the council may also make an assessment of the compensation therefor to be paid, with the costs of proceedings, or such part thereof as it shall determine to be just, upon the lands found by them to be directly benefited by such improvement in such proportion to the benefits enjoyed as it shall determine.

SECTION 13. Any person being dissatisfied with the amount of compensation for property taken, or the amount assessed as benefits, shall have the right to appeal to the circuit court of Outagamie county within twenty days from the time of awarding of compensation, or assessment of benefits, by serving on the mayor or city clerk a notice of appeal therefrom and giving a bond to the city in not less than one hundred dollars, to be approved by the mayor or city clerk to pay all costs of appeal in case the appellant shall not, upon such appeal, increase the amount of compensation, or decrease the amount assessed as benefits, as the case may be. The common council may appeal in behalf of the city, by giving notice to the opposite party, without giving bond. Upon filing such notice with the clerk of the circuit court, the appeal shall be considered an action pending in court for trial there, as other actions and shall be entered by the clerk upon the records of the court by setting down the party appealing as plaintiff and the other party as defendant. Such appeal shall be tried by jury, unless a trial by jury be waived by both parties; costs shall be allowed to the successful party in accordance with the conditions of said bond.

In case party is dissatisfied with the amount of compensation.

SECTION 14. The report of the commissioners shall be recorded by the clerk of the court, in whose office the same is filed, and at any time

Report of the commissioner shall be recorded.

after the making of such award the city may set apart in its treasury to the order of the owner or owners of the lands so taken, or pay the same to such owner or owners as to the clerk of said court for the use of such owner or owners, the amounts awarded by the commissioners, and thereupon may enter upon, take and use the land for the purpose for which it was condemned, and may obtain from either of said judges upon twenty-four hours' notice, a writ of assistance to put its officers or agents into possession of the same; provided that no appeal be pending.

Obligation to
cease with
title.

SECTION 15. When the whole of any lot or tract of land or other premises under lease or under contract shall be taken by virtue of this act all the covenants, contracts or engagements between landlord and tenant, or any other contracting parties touching the same or any part thereof, shall, upon confirmation of such report, respectively cease and be absolutely discharged.

In case only a
part of prem-
ises change
title.

SECTION 16. When only a part of a lot or tract of land or other premises so under lease, or contract shall be taken for any of the purposes aforesaid, all the covenants, contracts or agreements, respectively the same, upon the confirmation of such report, shall be absolutely discharged as to the part thereof so taken, but shall remain valid as to the residue thereof; and the rents, considerations and payments reserved, payable and to be paid for, and in respect to the same, shall be so proportioned that the part thereof justly and equitably payable for such residue thereof, and no more shall be paid or recoverable for in respect to the same.

Regarding dis-
abilities.

SECTION 17. When any known owner of lands or tenants affected by any proceedings under this charter shall be an infant or labor under any disability, the judge, before whom the proceedings are pending may, upon the application of the council, or such party or his next friend, appoint a guardian for such party, in the same manner as in a civil action in a court of record, and all notices required by this charter shall be served on such guardian.

Commissioners
shall be re-
quired to take
an oath.

SECTION 18. The commissioners appointed under this act shall, before they enter upon the performance of their duty, take an oath before the judge appointing them, faithfully and impartially

to discharge their duties as such commissioners. They shall be entitled to such compensation as the court may direct, which shall be paid by the city.

SECTION 19. The judge or court before whom proceedings are pending shall have power at any time to amend any defect or informality in any of the special proceedings authorized by this act, as may be necessary, or to cause new parties to be added, and to direct such further notices to be given to any party in interest as he deems proper; and also to appoint other commissioners in place of any who may die, or refuse or neglect to serve, or be incapable of serving.

Defects and informality may be amended.

SECTION 20. Whenever any public grounds, street or alley shall be laid out, widened or enlarged, or other public improvements made under the provisions of this chapter or this act, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk.

Surveys, etc.

SECTION 21. The council shall have the power to change the name of any street, and to vacate any plat or portion thereof that may be petitioned for by the proprietor of such plat, or any person interested therein; but no petition for such vacation shall be acted upon, unless notice of such application to the council shall have first been published in a paper, published in said city, or posted in, at least, three public places for two weeks prior to the meeting of the council.

Power to change name of streets.

SECTION 22. Roads or streets may be laid out by the council through unplatted lands in the same manner as roads are laid out by supervisors in towns.

Laying out of streets.

SECTION 23. All the foregoing directions given in this chapter shall be deemed only directory, and no error, irregularity or informality of any of the proceedings under the provisions of this act, not affecting substantial justice, shall in any way affect the validity of the proceedings.

Directions only directory.

CHAPTER VII.

CITY IMPROVEMENTS.

SECTION 1. The common council shall adopt general regulations relative to the cleansing and

City improvements.

repairing of streets, avenues, lanes, alleys, highways, bridges, sewers, sidewalks cross-walks and public grounds, and requiring the owners and occupants of lots or parcels of land bordering or abutting on any street, lane, avenue, alley, or highway, to keep in repair or rebuild the sidewalks adjoining their premises; and in case the owner or occupant of any such lot or parcel of land, after due notice, shall neglect or refuse to repair or rebuild any such sidewalk, the street commissioner shall, in pursuance of such regulation, or of the order of the common council, cause the same to be done at the expense of the said lots or parcels of land adjoining thereto or abutting thereon; and the street commissioner shall, prior to the second Monday in November in each year, make a report in detail to the city clerk, duly verified, of the amount of tax properly chargeable against each lot or parcel of land, for all work done and unpaid for, under the provisions of this section; and such amount shall be a lien on such lot or parcel of land, and with other or like special taxes authorized by this act, shall be levied thereon by the common council, at the next succeeding annual levy of taxes in said city, as a special tax, with all the legal consequences, both as to collection of taxes and sale of such lot or parcel of land for unpaid taxes, prescribed in this act, or the general laws of this state for special taxes.

Reference of ordinance, by-laws, etc.

SECTION 2. Every ordinance, resolution or by-law providing for the repairing, construction or reconstruction of any sidewalk, or gutter, or for the grading, repairing or improving any street at the expense, in whole or in part, of the owners of the lots, or parcels of land, abutting or fronting such sidewalk, gutter or street, shall, on being introduced at a meeting of the common council be referred to some appropriate committee, and any such ordinance, resolution or by-laws, shall not be passed or adopted sooner than two weeks after the introduction of such ordinance, resolution or by-law, nor until one week's notice of the introduction of such resolution shall have been published in a newspaper published in said city, or by posting three notices in three public places in said city; provided, that when said ordinance is introduced on petition of all the lot-owners sub-

ject to the special assessment of such ordinance, no notice by publication or otherwise shall be necessary.

SECTION 3. Sidewalks shall be constructed, reconstructed or repaired upon the proper established grade of any street in said city, of such width, in such manner, of such material, and in such time, as the common council by resolution, ordinance, or order, shall direct, by the owner or owners of any lot or piece of ground in front of which such sidewalk shall be ordered. If the owner or owners of any such lot or piece of ground shall not construct such sidewalk, as aforesaid, the common council may cause the same to be constructed at the expense of such owner or owners. The contract for the construction of any such sidewalk, shall be let to the lowest, reasonable, responsible bidder, who shall file bonds with the city clerk for the amount of the contract in full, for the faithful performance of such contract, and notice shall be given by publication for one week in a newspaper published in said city, or by posting notices in three public places, of the time, place and manner of receiving such bids. The common council shall levy a special tax upon each lot or piece of land in front of which any sidewalk shall be constructed by contract, sufficient to pay the cost of constructing the same; provided, no such contract shall be let until two weeks after such notice shall have been given to such owner or owners, either personally or by publication for one week in a newspaper published or by notices posted in three public places in said city.

Sidewalks shall be constructed on established grade.

SECTION 4. The common council shall have power, by a vote of two-thirds of all the members of the common council, to order the building, construction, reconstruction or repair of sidewalks in the city of Kaukauna, in such manner as it may deem proper, and no petition by the owners of the lots fronting or abutting on any such sidewalk, shall be necessary to authorize the common council to order such building, construction, reconstruction or repair of any sidewalk of said city. The proceedings for ordering the repair of sidewalks and the levying and collecting special taxes on the respective lots to pay for the same, shall be the same as hereby provided in case of

Powers of common council relating to repair of sidewalks.

building a new sidewalk, except as otherwise provided in this section. Whenever a sidewalk shall be out of repair, and shall so remain for the space of twenty-four hours, which, in the opinion of the street commissioner, will not cost to exceed the amount of three dollars, in front of any one lot part of a lot, to repair, he shall be authorized, and it is hereby made his duty to cause the same to be immediately repaired, and when the same is completed he shall make out an itemized bill of the cost of such repairs, specifying the lot or part of a lot, block, or piece or parcel of land in front of which said work was done, verified by his oath, and shall deliver the same to the clerk, and the clerk shall forthwith present the same to the owner of such lot, piece, or parcel of land if a resident of the city of Kaukauna, for payment, and if such owner shall refuse or neglect to pay the same for ten days, then the clerk shall report the fact to the common council, and the common council shall thereupon levy a special tax upon said lot, piece or parcel of land to pay the same, in the same manner as special taxes are levied for the construction of sidewalks. In case the owner of such lot, piece or parcel of land does not reside in said city, the said street commissioners shall return said account to the common council, with his certificate, stating that fact, and the common council shall, thereupon, levy a special tax to pay the same, in the manner in this section provided. Also any work required to be done in relation to this chapter, the common council may authorize to superintend, either the street commissioner or a committee appointed by them, the expense shall be paid by the city out of the general fund.

Cost and expense of surveying and to whom charged.

SECTION 5. The costs and expense of surveying streets, alleys, sewers and gutters, and of estimated work thereon, in the execution of any public improvements shall be chargeable to and payable by the city. The cost and expense of opening, grading, graveling, planking, paving or repairing streets and alleys shall be chargeable to and payable wholly or in part, by the lots or land fronting on such street or alley, so that each lot or parcel of land shall pay for work between the front of each lot or parcel of land, and the center of such street or alley, or such proportion thereof as the

council shall determine, or out of the general fund; sewers and gutters may be ordered by the common council, and built at the expense of the lots or parts of lots benefited thereby, and fronting upon the side of the street along which said sewer or gutter shall be constructed; provided, that all such improvements or work of any kind upon the streets or sidewalks, across streets or alleys and public grounds, shall be paid for by the city.

SECTION 6. Every person who shall interfere with, molest or hinder any alderman, street commissioner, contractor or sub-contractor, or retard the work on streets after the same is ordered, let and under contract, on any street, drain, sidewalk or other street improvements, shall be liable to pay a penalty of ten dollars, which shall be sued for and recovered, with costs, of such person or persons violating this section, in an action wherein the city shall be plaintiff, in the same manner as for the violation of city ordinances herein provided.

Penalty for interference with city officers.

SECTION 7. The common council of said city shall have power, and may in its discretion, by a vote of two-thirds of its members, advertise and let to the lowest responsible bidder, whose bid it shall deem reasonable and proper, the construction of, or rebuilding of any sidewalk, gutter, grading, paving, cleansing of streets, alleys, reservoirs, sewers, building or rebuilding of bridges, the tending of the canal bridge, or any other improvements, and the street commissioner shall direct and have control of the person or persons being the successful bidder, and make report thereof in writing to the common council of such jobs.

Letting work to lowest bidder.

CHAPTER VIII.

ASSESSING, LEVYING AND COLLECTING TAXES.

SECTION 1. All property in said city, real, personal and mixed, except such as may be exempt by the laws of the state, shall be subject to taxation for all purposes authorized by law, and the same shall be assessed annually by the assessor elected under this act. In making such assessments and his return thereon, and in making re-assessments, or assessing property omitted pre-

Assessing, levying and collecting taxes.

vious years, the said assessor shall have the same powers and subject to the same duties as town assessors, and shall in all things be governed by the general laws of this state in relation to the assessments of taxes, except so far as they may be altered by this act; provided, however, that the common council may prescribe the form of assessment roll, and more fully define the duties of assessors, and make such rules and regulations in relation to revising, altering or adding to, such roll as it may, from time to time deem advisable.

Return of the assessment roll.

SECTION 2. The assessor shall return the said assessment roll to the board of equalization of the city, on, or before the first Monday in July in each and every year. The board of equalization may supply omissions in said roll, and for the purpose of equalizing the same, may alter and add to, take from, and otherwise revise and correct the same, as justice and equity may require.

Omission from the assessment roll how supplied.

SECTION 3. If it shall appear to the assessor, that any lot or parcel of land was omitted in the assessment roll of any of the three next previous years, and that the same was then liable to taxation, he shall, in addition to the assessment of that year, assess upon the lot or tract so omitted, for such year or years that it shall have been so omitted, the just value thereof, noting the year where such omission occurred, and such assessment shall have the same force and effect, as it would have had if made the year when the same was omitted; and the common council shall direct, in addition to the tax for the current year, such tax to be levied upon such lot or tract as the same would have been chargeable with, had not the same been so omitted, and such tax shall be collected as other taxes or assessments for the current year. All lands shall be subject to taxes that may have been omitted, into whatsoever hands they may have come. Whenever a re-assessment shall become necessary, for any cause mentioned in the revised statutes, or any law amendatory thereof, the common council shall make such re-assessment conformably to the general laws of the state.

Board of equalization—by whom constituted.

SECTION 4. The mayor, city clerk, city assessor, and the supervisor of each ward shall constitute the board of equalization and shall meet on the first Monday of July, each and every year, at nine

o'clock in the forenoon, and shall proceed in all respects as town boards of review are by law required to proceed, as far as the same is applicable, reviewing, correcting and equalizing the assessment roll of the city. The mayor shall be president of the board of review, and the city clerk be clerk thereof; provided, in case of a tie vote, the city board of review may call on the nearest justice of the peace in said city.

SECTION 5. When the assessment roll shall have been revised and corrected, the same shall be filed with the city clerk on or before the first Monday in August in each year, and all the changes made in the assessment roll by the board of equalization, shall be duly recorded on the minutes, by the city clerk.

When assessment roll shall be filed with the clerk.

SECTION 6. All taxes and assessments, general or special, levied under this act, shall be, and remain, a lien upon the tenements upon which they may be assessed, from the time of the final completion of the assessment roll, and on all personal property of any person or body politic, assessed for personal taxes, from the date of the warrant for collection thereof, until such tax shall be paid, and no transfer of such real or personal property shall affect such lien.

Taxes to remain a lien on property.

SECTION 7. Before the annual meeting of the county board of Outagamie county, and by the time required by the laws of this state for the return of assessments from the several towns, the city clerk shall transmit an abstract of the assessment roll to the county clerk of said county, who shall lay the same before the county board at their annual meeting.

Abstract of the assessment roll to be transmitted to county clerk.

SECTION 8. The county board of Outagamie county shall regard the city of Kaukauna as a town in equalizing the assessment of the several towns in said county, as provided by law; but in such equalization shall consider the assessment roll of said city as an entire roll.

SECTION 9. The county board of Outagamie county may levy a tax or taxes upon such city as now is or may be provided by law hereinafter, in relation to towns, and shall cause the amount of taxes so levied to be certified to the city clerk, in the manner provided by law in relation to towns and town clerks, and in all transactions of the county board of said county, said city shall be

County board may levy tax on city.

regarded as a town, except as herein otherwise provided.

Duties of the city clerk respecting county tax levy.

SECTION 10. Upon receiving the statement of the amount of taxes so levied the city clerk shall make out upon the assessment roll, in columns left for that purpose, or upon a copy thereof, a complete statement of the several taxes levied for state, county, school, city, and all other purposes, and all delinquent taxes of any previous years, and all special taxes levied by the common council since the making out of the annual tax list, in such separate columns as may be necessary, with the total footings carried out opposite each tract, or lot, or parcel of land, or persons named therein, which statement shall be called the tax list of the city of Kaukauna, and shall be preserved by said clerk as a record in his office, and shall have the same legal force and effect as the records of the common council, and in calculating the taxes in dollars and cents, the city clerk shall reject the fraction of a cent when less than one-half, otherwise reckoning said fraction as a cent.

Assessment roll to be prima facie evidence.

SECTION 11. The said assessment roll and warrant thereto attached shall be *prima facie* evidence in all courts that the lands and persons therein named were subject to taxation, and that the assessment was just and equal.

Duplicate copy of assessment roll shall be made by clerk.

SECTION 12. The city clerk shall immediately make out a duplicate copy of such assessment roll, when thus completed, called the tax roll, and deliver the same to the treasurer on or before the third Monday of December in each year; provided, that the city treasurer has filed with the city clerk the proper bond, and the bond for state and county taxes, and make a record of such delivery on the tax list preserved in his office, and the form of warrant to be attached shall be as the law prescribes.

Which laws are in force.

SECTION 13. All the general laws of this state which are now or may hereafter be in force relative to the assessment and collection of taxes, shall be in force in said city, except as otherwise herein specially provided, and the city treasurer shall proceed to collect the taxes and all assessments of said city in the same manner as is required by law of the town treasurer to collect taxes except as herein provided.

SECTION 14. Upon the receipt of any tax roll

and warrant by the treasurer, he shall give public notice of seven days, either in a newspaper or by posting the same in three or more public places in said city, that such tax list has been committed to him for collection, and that he will receive payment for taxes at the city clerk's office on and after the day in such notice to be specified.

Notice to be given by treasurer.

SECTION 15. On or before the last Monday in January in each year, unless the time is extended as provided by law, the said treasurer shall make out a return to the treasurer of Outagamie county, in which said lands may be, the list of all lands and lots upon which taxes have not been paid, and shall also settle with and pay over all moneys properly payable to said county treasurer, in like manner as now is or may hereafter be required of town treasurers. The said treasurer shall also, at the time, make out and deliver to the city clerk, a list of all delinquent personal property taxes for the same year. The county treasurer shall add the same interest, penalty or fees to such delinquent returns as are allowed, or are required by law upon delinquent returns of the several towns.

City treasurer to make return to county treasurer.

SECTION 16. The county treasurer shall sell all delinquent lands and lots, or parcels of land returned from the city of Kaukauna, at the same time and in the same manner as other delinquent lands are sold said county.

County treasurer shall sell delinquent lands.

SECTION 17. The common council shall have power to levy a tax or taxes to pay any and all judgments assessed or rendered against the city.

Council has power to levy taxes.

SECTION 18. In case the city treasurer shall at any time refuse or neglect to perform his duties in enforcing the payment of taxes, as provided by this act and as authorized and required by the laws of this state, the common council shall forthwith remove such treasurer from office, and appoint a suitable person to fill the vacancy.

Penalty in case city treasurer shall neglect his duties.

SECTION 19. At the expiration of the time now or hereafter designated by the general laws of this state for the collection of personal taxes, the city treasurer shall proceed to enforce the collection thereof, in the same manner as now is or may hereafter be prescribed by law.

Enforcement of law.

SECTION 20. Every male inhabitant of the city of Kaukauna, over twenty-one years of age and under fifty years of age, except active members

Poll tax.

of the fire department in the city, and paupers, idiots and lunatics, shall pay into the treasury the sum of one dollar and twenty-five cents annually, each, as poll tax.

List of persons liable for poll tax.

SECTION 21. The assessor of said city shall, in the month of May in each year, make out duplicate lists of all persons liable to pay said tax, designating the ward in which each person on said list resides, and shall, on or before the first Monday in June, each year, deliver one of said duplicate lists to the city clerk, which shall be filed and preserved in his office. The other duplicate list he shall at the same time deliver to the street commissioner.

Duty of clerk in regard to poll tax.

SECTION 22. Upon receiving such list said clerk shall cause to be published in a newspaper, if any, for three successive weeks, otherwise to post three notices in three public places in North Kaukauna and South Kaukauna in said city, a notice to the effect, that the list of poll taxes is in the hands of the street commissioner for collection, and that all persons failing to pay the same prior to August first in such year, will be proceeded against as provided by law.

Shall be paid to street commissioner.

SECTION 23. After such list is in the hands of the street commissioner, any person may pay to such commissioner the amount of his tax in money, or if he desires to, he shall be permitted to perform ten hours' work upon the streets of the city respectively, under the direction of such commissioner, at such time and place as he shall direct, within the month of July, in lieu of money.

Exemptions from poll tax.

SECTION 24. The mayor, city clerk and city assessor shall constitute a board to determine the liability of persons to pay such tax, and all persons claiming to be exempt from poll tax, shall apply to said board to be relieved therefrom before July first. A failure so to apply, shall be deemed conclusive evidence of the liability to pay such tax; said board shall meet at the city clerk's office on the third and fourth Mondays of June for the purpose of hearing such complaints.

Collection of poll tax due.

SECTION 25. The street commissioner of said city shall, in the name of said city of Kaukauna, sue for and collect the poll tax from all persons liable to pay said tax, who shall not have paid the

same on or before the first day of August of each year.

SECTION 26. The said street commissioner, upon receiving the poll list, shall proceed to collect the same, and shall receive as compensation therefor five per centum upon the above amount of such taxes, collected in money, in addition to all other compensation.

Compensation to street commissioner for collecting poll tax.

SECTION 27. The common council of the city of Kaukauna shall, on or before the first Tuesday in May, in each year, determine and levy the amount of highway tax for the ensuing year, for the purpose of constructing and repairing streets and highways, upon all the taxable property of said city, as the same shall appear by the last assessment roll of said property.

Highway tax.

CHAPTER IX.

FIRE DEPARTMENT.

SECTION 1. The common council, for the purpose of guarding against the calamities of fire, shall have the power to prescribe the limits within which wooden buildings, or buildings of other materials that shall not be considered fire-proof, shall not be erected, and to direct that all and every building within the limits prescribed shall be made and constructed of fire-proof materials, and to prohibit the repairing or rebuilding of wooden buildings within the limits where the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damage, and to prescribe the penalties for the violation of any resolution or ordinance passed under this section.

Fire department—powers of council.

SECTION 2. The common council shall have power to prevent the dangerous construction and condition of chimneys, fireplaces, stovepipes, ovens, etc; to prevent the deposit of ashes in unsafe places; to authorize the mayor, aldermen and other officers of the city to keep away from the vicinity of a fire all idle and suspected persons, and to compel all bystanders to aid in the extinguishment of fires, and in the preservation of property exposed to danger thereat; and generally to establish such regulations for the prevention

Precautions for preventing fires.

and extinguishment of fires as the common council may deem expedient, and to provide penalties for the violation of any resolution or ordinance passed under this section.

May purchase fire-engines.

SECTION 3. The common council shall have full power to purchase fire-engines and other fire apparatus, and to authorize the formation of fire-engine and hook and ladder companies, and to provide for the due and proper support and regulation of the same. Each company may elect its own officers, except chief engineer and assistant engineer, who shall be appointed by the common council. Every member of said company hereby authorized to be formed shall be exempt from poll tax and jury duties during the continuance of such membership.

May enter buildings.

SECTION 4. The aldermen shall be fire wardens in their respective wards, and they may at any time enter into any building, house, store, barn, enclosure, for the purpose of inspecting the same.

Fire company tests.

SECTION 5. The clerk or secretary of each fire company or hook and ladder company, duly organized shall, on or before the first Tuesday in May in each year, return to the city clerk a list containing the names of each member of said company, and when any member of either of said companies shall cease to be a member thereof, the fact shall be reported to the city clerk.

Record of members.

SECTION 6. The city clerk shall keep a record of the members of the several companies duly organized, and such records shall consist of the returns made by the several clerks or secretaries as above provided; and no person shall be exempt from jury duties unless his name is entered on such list. In case any person shall cease to be a member of either of said companies, the clerk shall note that fact on the list thereof; and the city clerk shall return to the county clerk of Outagamie county a list of all persons who are members of either of said companies, on or before the day now appointed, or which may be appointed, for the annual meeting of the county board, and said board shall not place the names of such persons on the jury list for the ensuing year.

SECTION 7. All powers not herein enumerated are hereby vested in the common council.

CHAPTER X.

ACTIONS TO RECOVER PENALTIES, ETC., TO BE IN NAME OF CITY.

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

Actions to re-
cure penalties.

PROCESS.

SECTION 2. In all prosecutions for any violation of any of the provisions of this act, or any by-law, ordinance or regulation, the first process shall be a summons unless oath be made for a warrant, as in cases of tort before justices of the peace, under general statutes of the state for the time being.

Process.

SUMMONS—FORMS.

SECTION 3. When the action by summons, such summons may be substantially in the following form:

Summons,
form for.

County of Outagamie, city of Kaukauna ss:

The state of Wisconsin to the sheriff or any constable of said county, or to the marshal of the city of Kaukauna. You are hereby commanded to summon, A. B. if he shall be found within your county, to appear before the undersigned,—in and for said city, at his office in said city, on the——day of——, 18—, at——o'clock in the——noon, to answer to the city of Kaukauna, to the damage to said city, two hundred dollars or under; given under my hand at the said city, this——day of ——18——

SERVICE AND RETURN OF SUMMONS.

SECTION 4. Such summons shall be made returnable and be served in the same manner, as is now or hereafter may be prescribed by the laws

Service and re-
turn of sum-
mons.

of the state, for the commencement of action before justices of the peace, by summons, and all proceedings in the action except as hereinafter provided, shall be governed by the laws of this state for the time being, relative to actions commenced by summons and triable before justices of the peace.

COMPLAINT.

Complaint.

SECTION 5. When the action commenced by summons, the complaint may be substantially in the following form:

The city of Kaukauna, against A. B. in—— court, before C. D.——

The plaintiff complains against the defendant, for that, the defendant on the——day of —, 18—, at the said city, did violate section — of chapter ——of this act or section ——, of an ordinance, or by-law, or regulation of said city describing it by its title, which said section is now in force. By reason of such violation an action hath accrued to the city of Kaukauna to recover of the defendant the sum of —— dollars; wherefore the plaintiff demands judgment against the defendant for the sum aforesaid, besides the costs of this action.

COMPLAINT UPON OATH FOR WARRANT.

Complaint upon oath for warrant.

SECTION 6. In all cases where oath is made for a warrant, the complaint shall be made on oath, and no other affidavit shall be necessary, which last mentioned complaint may be substantially in the following form.

The city of Kaukauna, against A. B. in—— court, before C. D. County of Outagamie, ss. ——being duly sworn, upon oath, complains to said C. D. —— in and for the city of Kaukauna, in said county, that A. B., on the —— day of —— 18—, at said city, did violate section —— of chapter —— of this act, or section —— of an ordinance or by-law, or regulation of said city, describing it by its title, which said —— is now in force, as this complainant verily believes, and prays that the said A. B. may be arrested and held to answer to said city of Kaukauna therefor; sworn and subscribed to this —— day of ——, 18—, before me, C. D.

It shall be sufficient to give the number of the section, and chapter of this act, or the section of

the ordinance, by-law or regulation violated, or particular part thereof, in the foregoing forms of complaint, and said complaint may be sworn to before any officer authorized to administer oaths. Upon the filing of such complaint with the justice of the peace, he shall issue a warrant substantially in the following form:

FORM.

County of Outagamie, }
 City of Kaukauna. } ss:

Form of warrant.

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal of the city of Kaukauna, greeting: — has this day complained to me in writing, on oath, that A. B. on the — day of —, 18-- at said city, did violate section — of chapter —, of this act, or section — of an ordinance, or by-law, or regulation, of said city, describing it by its title, which said — is now in force, as this complainant believes. Therefore you are commanded to arrest the body of said A. B. and bring him before me, forthwith to answer to the city of Kaukauna, on the complaint aforesaid. C. D. Upon the return of the warrant, the justice may proceed summarily with the case, unless it be adjourned, by consent or for cause, if the case be adjourned the defendant, if required by the court so to do, shall recognize with security to be approved by the court, for his or their 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 Outagamie county. The complaint aforesaid shall be the only complaint required, and the answer of "not guilty," shall put in issue all subject matter embraced in the action.

COPIES AS EVIDENCE.

SECTION 7. A printed copy of an ordinance, by-law or regulation, passed by the common council, and published in a newspaper, or in pamphlet or book form, purporting to be published by authority of the common council, or certified by the clerk of said city to have been so published, shall be *prima facie* evidence of its passage and publication, and shall be received in evidence on the trial of all cases cognizable before any court of the state.

Copies as evidence.

ATTENDANCE OF WITNESSES AND JURORS.

Attendance of witnesses and jurors.

SECTION 8. Witnesses and jurors shall attend before the court in all city and criminal suits, without payment of fees in advance, or a tender thereof, upon process duly served, and in default thereof, their attendance may be compelled by attachment.

FINDINGS OF COURT.

Findings of court.

SECTION 9. In city prosecutions the findings of the court shall be either "guilty," or "not guilty;" if guilty, the court shall render judgment thereon against the defendant, for the fine, penalty, or forfeiture prescribed in this act or in the ordinance, by-law or regulation, for the violation of which the person, or persons shall have been adjudged guilty, and for costs of suit; but if not guilty, the costs of suit shall be taxed against the city, upon the rendition of judgment against the defendant, and the non-payment thereof; the justice shall forthwith issue execution, as in other cases of tort, in case the action was commenced by summons, or a commitment, in case it was commenced by warrant, and shall in either case determine and enter upon his docket, the length of time the defendant shall be imprisoned for non-payment, which in no case shall exceed six months, and also insert such term in the execution or commitment. Such execution may be in the following form:

Form of execution.

County of Outagamie, }
 City of Kaukauna. } ss.

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal of said city, and to the keeper of the common jail in Outagamie county, greeting: Whereas, the said city of Kaukauna, on the — day of —, 18—, recovered a judgment before the undersigned — in and for the said city, against —, for the sum of — dollars, together with the sum of — dollars and — cents, cost of suit for the violation of section — of chapter — of this act, or section — of an ordinance, or by-law, or regulation of said city, describing it by its title: You are hereby commanded to levy distress of the goods and chattels of the said —, excepting such as the law exempts, and make sale thereof according to the law, to the amount of said sum, together with

your fees, and twenty-five cents for this writ, and the same return to this court in thirty days; and for want of such goods and chattels whereon to levy, to take the body of the said —, and him convey and deliver to the keeper of the common jail in Outagamie county, and said keeper is hereby commanded to receive and keep in custody in said jail, the said —, for the term of —, unless the said judgment, together with all the costs and fees are sooner paid, or he be discharged by due course of law. Given under my hand this — day of —, 18—.

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

APPEAL, ETC.

SECTION 10. Any defendant feeling aggrieved by the judgment of a justice of the peace, in any action commenced under the provisions of this act, by summons or warrant, may appeal from such judgment to the circuit court of Outagamie county, in the manner provided by the general laws of this state for appeals from justice courts in criminal cases; the justice from whose judgment an appeal shall be taken shall make a special return of the proceedings had before him, and shall forthwith cause the summons or warrant and return, together with the proceedings and a copy of the entries on his docket in the action, together with the recognizance, to be filed in the office of the clerk of said court; and the city may appeal from any such judgment as in other cases before justices of the peace.

Appeals, etc.

APPEAL—HOW TRIED.

SECTION 11. Said appeal shall stand for trial by jury, unless a jury be waived, in the manner provided by law, in said circuit court, at the next term thereof after the day the judgment of the justice shall be rendered.

Appeal, how tried.

JUDGMENT TO BE ENTERED ON CONVICTION.

SECTION 12. If the judgment of the justice shall be affirmed, or if on the trial the defendant shall be convicted, the court shall inflict the penalty provided by this act, or the ordinance, resolution, by-law or regulation under which he or

Judgment to be entered, when.

they are prosecuted, and enter judgment against him or them and their sureties for such penalty, together with the costs in both courts, and enforce the same by execution as in cases of tort.

NOT TO WORK INCOMPETENCY.

Not to work in-
competency.

SECTION 13. No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant of said city in any proceeding or action in which the city shall be a party in interest.

PRESERVATION OF BRIDGES.

Preservation of
bridges.

SECTION 14. The general laws for the preservation of bridges, and the punishment provided by such laws for willful and malicious injuries done thereto, are hereby extended to, and shall include all of the bridges erected or owned by said city, and shall apply to any willful or malicious injury which may be done to either or any of them, by any person or persons whatever and the common council of said city may from time to time make such by-laws or ordinances as it may deem necessary for the preservation of such bridges, and enforce the same by adequate penalties. In case of any damage done to any of said bridges by any vessel or water-craft, or by the master or any person in command thereof, such vessel or water-craft may be proceeded against by the said city, under the law to provide for the collection of demands against boats and vessels, which does now, or hereafter may exist.

HOW PROCESS SERVED AGAINST CITY.

Process to be
served against
the city.

SECTION 15. When any suit or action shall be commenced against said city, the service thereof may be made by leaving a copy of the summons with the mayor or clerk of said city, and it shall be the duty of the said mayor or clerk so served, forthwith to inform the city attorney thereof, or to take proceedings, as, by ordinance or resolution of said council, may be in such cases; provided, judgments against said city shall be collected in the same manner as judgments against towns.

PENALTIES, ETC., PAID INTO TREASURY.

Penalties to be
paid into the
treasury.

SECTION 16. All penalties and forfeitures recovered and collected under and by virtue of this act, shall be paid into the city treasury for the use and benefit of said city.

EXECUTION NOT TO BE ISSUED AGAINST CITY PROPERTY.

SECTION 17. No execution or attachment in any legal proceeding, shall be issued or levied upon or against any property belonging to the city of Kaukauna, nor shall private property in said city, be subject to levy or seizure, upon attachment or execution issued to collect or satisfy any contract, debt, obligation, demand or judgment against said city.

Execution not be issued against city property.

MISDEMEANORS OF CITY OFFICERS AND THEIR PUNISHMENT.

SECTION 18. Every member of the common council of the city of Kaukauna, who shall directly or indirectly, vote to himself, or knowingly, to any other person, any sum of money for any other purpose whatever, in violation of the city charter, or any amendment thereto, or shall ask or receive any compensation for doing any official, except as inspector of election, member of the board of review, and as member of the board of registry. Any member of the common council, or other city officer, who shall be directly or indirectly interested in any contract made with or in behalf of the city, and any member of said council, or any other city officer, who shall directly or indirectly purchase or be interested in the purchase of any city order, or city indebtedness for less than the full amount thereof, shall be deemed guilty of a misdemeanor in office, and may be prosecuted by complaint before a city justice, and upon conviction thereof may be punished by fine not exceeding one hundred dollars, nor less than twenty dollars, or by imprisonment in the county jail not more than thirty days, nor less than ten days, or both, at the discretion of the court.

City officers and their misdemeanors.

CHAPTER XI.

MISCELLANEOUS PROVISIONS.

SECTION 1. The credit of the city shall never be given nor loaned in aid of any individual, association or corporation.

Credit of city can not be loaned.

SECTION 2. Every license issued by the authority of this act, or the ordinances of the city, shall be signed by the city clerk and sealed with the

Licenses, by whom signed.

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

Two-thirds vote required to assign license.

SECTION 3. No assignee of any license shall be permitted to pursue the occupation or business licensed, except by a vote of two-thirds of the common council; also the assignee shall file a bond required in section 2, of this chapter XI.

What laws are in force.

SECTION 4. Chapter 63, of the revised statutes of the year A. D. 1878, and the laws amendatory thereto, in relation to the support of the poor, shall apply and be in force in the city of Kaukauna, respectively.

Supervisors of the county board.

SECTION 5. The city of Kaukauna shall be represented in the county board of Outagamie county by one supervisor from each ward.

Use of jail.

SECTION 6. The use of the jail of Outagamie county until otherwise provided, shall be granted to the city of Kaukauna for the confinement of offenders.

Remission of taxes.

SECTION 7. The common council may remit any tax or special assessment, or any part thereof, whenever the same shall be manifestly illegal or unjust,

Citizens of town may hold meetings in city.

SECTION 8. The citizens of the town of Kaukauna, and the citizens of the town of Buchanan, shall have the privilege to hold all town meetings and general and special elections at such places in the city of Kaukauna as they may determine, and the officers of said town of Kaukauna and town of Buchanan may transact all town business in said city with the like effect, as if held or done in the towns respectively.

Surety on bonds.

SECTION 9. No alderman or any other officer shall be accepted as surety upon any bond, note or obligation made by the city, nor shall any officer, required to give bonds enter upon the discharge of the duties of his office until such bond

shall first have been filed and approved as by this act provided.

SECTION 10. Any officer may resign his office by filing his written resignation with the clerk; and such resignation shall take effect, and his office shall be deemed vacant from the time such resignation shall be accepted by the common council.

Resignation of office.

SECTION 11. The city of Kaukauna shall constitute two road districts within the territory. District number one comprises all the territory within the boundary line, and north of the main channel of Fox river; and district number two comprises all the territory within the boundary line of said city, and south of the main channel of Fox river.

Road districts in city.

SECTION 12. The city of Kaukauna, or that part south of the south channel of Fox river, shall own and succeed to all the money and property, and all the rights of the property, contract or action, and to all the duties, liabilities and obligations of the village of Ledyard; and all rights, action, prosecutions, demands and claims in favor of or against said village, shall continue and be of the same force in favor of or against said village as if no change had been made.

Division of property.

SECTION 13. The city officers to be first elected or appointed under the provision of this act, shall receive as compensation for their services, such per diem or compensation as the common council shall determine, and the common council shall, on the second Tuesday in March, thereafter, determine by resolution, the salary to be paid to the different officers for the next ensuing year, which compensation shall not be increased or diminished during the term of office of such officers; and in case of a neglect to determine the compensation, the said officers, and each of them, shall receive the same compensation as their immediate predecessor.

Compensation of city officers.

SECTION 14. The officers of the city of Kaukauna at present or in the future, are hereby restrained and restricted for the period of ten years, *i. e.*, the year of our Lord, 1895, to lay out a highway, or to build a bridge over the south channel of Fox river, below the bridges now constructed over said Fox river, in the said city of Kaukauna,

Restricted for 10 years from laying out highway.

ard this section shall not be repealed, amended, altered or modified within the term of ten years from the passage of this act.

Division of property, when to meet.

SECTION 15. It is hereby made the duty of the aldermen, one of each ward, who is elected for the term of two years, of wards number one, two and five respectively of the city of Kaukauna, and the board of supervisors of the town of Kaukauna, to meet together at some convenient place on or before the first Monday in May, 1885, upon notice given by either body and if possible agree upon some just, fair and equitable settlement or adjustment and division of the property, money, credits, duties, liabilities, obligations and every other matter or thing, made necessary by the organization of said city, out of the territorial limits of the town of Kaukauna; and the aforementioned aldermen of said city are authorized to make settlement in behalf of the territory subject to the indebtedness, and to make a just, equitable and fair division of the amount of bonded indebtedness then due or to become due, whether of principal or interest, and shall allot and set off to said city the amount of such proportionate amount of principal and interest, as should in justice and in equity be paid by said city; and shall also set off and allot to said town of Kaukauna, such proportionate share and amount of such principal and interest, as should in justice and in equity be paid by said town. In determining such proportion so to be paid by said town and city, the said supervisors and the said aldermen shall take the last preceding respective assessment roll of the town, and allot to said city and town respectively.

If the aldermen cannot agree on division of property.

SECTION 16. If the aldermen so empowered, and the town board, shall be unable to agree upon an honorable, just and fair settlement or adjustment and division, as provided in the preceding section, then it is hereby made the duty of the judge of the circuit court of Outagamie county, upon application made to him by either or both bodies, five days' notice having been previously given to the other body to appoint three commissioners, one to be a resident of said city, one of said town, and one to reside outside of both city and town, who shall have power, and it is made their duty, as soon as may be after their appointment, and filing with the clerk of the circuit

court in and for said county, their oaths to faithfully and fairly adjust and settle all matters of dispute between said city and town, as thereinbefore mentioned; to examine into and fairly, equitably and justly make a division of all property, moneys, credits and property owned by said town in common; make a full and complete settlement or adjustment of all matters between said city and town, arising or growing out of the formation of said city, out of the territorial limits of said town, and especially out of the indebtedness of said town, any portion of which said territory in the city limits is subject to and ought to pay, comprising wards number one, two and five, and in order to make such a settlement, adjustment and division as herein contemplated, the said commissioners shall make use of and shall use as a basis as such settlement and adjustment, and shall be therein governed by the assessment roll of said town of Kaukauna for the year 1884, and all other town records they deem necessary to have in order to arrive at a just conclusion. The said commissioners shall, as soon as possible, make their award in writing, and file the same in the clerk of the court's office of said county, which shall be final and conclusive between the parties.

SECTION 17. Any and all amounts found as aforesaid to be owing by said city to any portion of the territory outside of the city which comprises a part of the town of Kaukauna, from which said city was formed, shall be paid by said city to the proper officers authorized to receive and receipt for the same; but if it shall be found upon such settlement that there is any amount due said city from any portion of the territory outside of said city limits, which was an organization from which said city was formed, that portion of said territory, so owing said part of said city, shall pay the amounts to the city treasurer, and in case any portion of the territory so indebted shall fail, neglect or refuse to pay the amount thereof so found to be due, the city treasurer of said city shall proceed to collect the same in a manner as is now provided by the laws of this state, for the collection of debts against towns, villages and cities.

Further regarding division of property.

SECTION 18. The city and town clerks shall Duty of clerks.

carry out upon their respective tax rolls the amounts so proportioned as otherwise authorized upon a uniform percentage opposite each valuation in said roll, subject to taxation therefor and the amount to be raised by said city to be calculated on the property real and personal on the wards number one, two and five respectively in said city.

Description
of city lots.

SECTION 19. The plats of the village of Kaukauna and the additions thereto, heretofore executed and recorded, are hereby adopted as plats of the city of Kaukauna, and the additions thereto, and the real estate included in said plats, and the real estate not yet platted within the outside boundary line, may be hereafter described by lots and blocks, and by describing the plats as the original plat of the village of Kaukauna and village of Ledyard, now city of Kaukauna, or the plat of a specified addition to the village of Kaukauna or village of Ledyard, now city of Kaukauna, and in like manner with the plats of other additions, or in any other manner so as to describe the land with reasonable certainty.

Relating to
bonds.

SECTION 20. In case the electors of wards number one, two and five of said city by vote at an annual or special meeting to determine to call in and pay or refund the bonds as apportionate, the city of Kaukauna may in behalf of wards number one, two and five issue and negotiate bonds for its proportion of said indebtedness, payable at such times and bearing such rate of interest as may be determined by its electors, in the manner and upon such notice as is provided in respect to the issue of town bonds by subdivision 7, of section 776, of the revised statutes.

Compensation
of aldermen.

SECTION 21. The authorized aldermen, the town board of Kaukauna, or the commissioners, shall receive such compensation as the judge of the circuit court may determine. The compensation to the witnesses shall be determined by the foregoing mentioned authorities, and be paid out of the general fund of the town of Kaukauna; the minutes and proceedings to be filed with the city clerk and town clerk, and there shall be no appeal on their findings; and the original to be filed with the clerk of the circuit court.

SECTION 22. From and after the 25th day of March, A. D. 1885, the connection between the

town of Kaukauna and that part of said town within the limits of the city of Kaukauna, for all town purposes, shall be dissolved; all that part of the town of Kaukauna not included within the limits of the city of Kaukauna shall constitute the town of Kaukauna, and the first town meeting shall be held at such place as the majority of the town board shall appoint. The foregoing rule shall apply to the town of Buchanan and the village of Ledyard as far as dissolution and final settlement is concerned.

Connection between city and village considered.

SECTION 23. The town board and the town clerk of the town of Kaukauna shall sign and give notices and perform the duties enjoined, and file papers provided in this act, and shall receive the compensation therefor as for doing like services for the town.

Notices and duties.

SECTION 24. The common schools of the city of Kaukauna shall be under the control and supervision of the school district boards of each district, in the same manner as if this act had not been passed, and the same relations shall be sustained between said city and such schools, as near as may be, as between towns and school districts therein, and the same reciprocal powers and duties.

Control of schools.

SECTION 25. The town clerk of the town of Kaukauna and the town clerk of the town of Buchanan for the year 1885, shall apportion all school money or school fund that is to be apportioned prior to the first day of September, 1885, to the several districts, a part of which is embraced in the city of Kaukauna, in the same manner as though this act had not been passed.

Apportionment of school money.

SECTION 26. The common council shall have power to purchase a stone crusher, and to purchase stone and cause the same to be broken and prepared for use in improving the streets of the city.

Stone crusher.

SECTION 27. The engine-house, council rooms and city lock-up shall be located in the Fifth ward. The location of any other public buildings shall be left to the will of the majority of the people.

Location of engine-house, etc.

SECTION 28. If any election by the people or common council shall for any cause not be held at the time or in the manner herein prescribed, or if the common council shall fail to organize as

Failure to hold election shall not destroy corporation.

herein provided, it shall not be considered reason for arresting, suspending or abolishing said corporation; but such election or organization may be held at any subsequent day, by order of the mayor; and if any of the duties enjoined by this act, or the ordinances or by-laws, or regulations of said city, to be done by any officer at any specified time, and the same are not then done or performed, the common council may appoint another time at which the said act may be done and performed.

SECTION 29. No general law contravening the provisions of this act shall be considered as repealing, amending, or modifying the same, unless such purpose be expressly set forth in such law.

SECTION 30. This act shall take effect and be in force from and after the 25th day of March, A. D. 1885.

NOTE BY THE SECRETARY OF STATE.—The foregoing act having been presented to the governor for his approval, and not having been returned by him to the house of the legislature in which it originated, within the time prescribed by the constitution of the state, has become a law without his approval.

March 7, 1885.

ERNST G. TIMME,
Secretary of State.

[No. 127, A.]

[Published March 11, 1885.]

CHAPTER 52.

AN ACT to amend chapter 351, of the general laws of 1883, entitled, "an act to incorporate the city of Nicolet."

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

Name amended. SECTION 1. Chapter 351, of the general laws of 1883, is hereby amended by striking out the word "Nicolet" where it occurs in any section of said chapter, and insert in place thereof the word, "Nicollet."