

[No. 592, A.]

[Published April 9, 1887.]

CHAPTER 331.

AN ACT to incorporate the city of Altoona.

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

CHAPTER I.

CITY AND WARD BOUNDARIES.

SECTION 1. All that district of country in the county of Eau Claire, in the state of Wisconsin, hereinafter described, from and after the first Tuesday in April, A. D. 1887, shall be a city by the name of Altoona, and the people now inhabiting and those who shall hereafter inhabit said district shall be a municipal corporation by the name of the city of Altoona, and shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall have and possess the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession, and shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded, in all courts of law and equity, and shall have a common seal, and may change and alter the same at pleasure.

Corporate name.

SECTION 2. All of sections twenty-two and twenty-three and the west one-quarter of section twenty-four, all in township number twenty-seven north, of range number nine west, in the county of Eau Claire, and state of Wisconsin, shall be included in and constitute the limits of the city of Altoona.

City boundaries.

SECTION 3. The said city shall be divided into two wards, as follows: All that portion of said city lying east of the center line of Courtland street continued, to the north boundary line of said city, shall constitute the first ward, and all that portion of said city lying west of said line shall constitute the second ward.

Wards.

Annual election, when held.

SECTION 4. The annual election for city and ward officers shall be held on the first Tuesday in April in each year, at such place in each ward as the common council shall designate and provide, and the polls shall be kept open from nine o'clock A. M. until five o'clock P. M. The city clerk shall give at least six days' notice of such election, stating time and place of holding the same, the officers to be elected thereat, and also of any special action to be taken or asked at such meeting, by causing the same to be printed in one or more papers published in said city, or by posting copies of such notice in two or more public places in each ward of said city. If notice be given by newspaper publication as aforesaid, the city clerk shall file a copy of the paper containing such notice in his office. If given by posting notices as aforesaid, the city clerk shall attach to the original notice his certificate, stating the time of posting notices, and the number posted in each ward, and the places of posting the same, and file such original notice with such certificate attached in his office.

Corporate authority.

SECTION 5. The corporate authority of said city shall be vested in one principal officer, styled the mayor; in one board of aldermen, consisting of four members, who, with the mayor shall be nominated the common council, together with such other officers as are hereinafter mentioned, or may be created under this act.

CHAPTER II.

ELECTIVE OFFICERS, ETC.

Elective officers of city.

SECTION 1. The elective officers of said city shall be a mayor, treasurer, assessor, two justices of the peace, one police justice and one constable for the city at large, and two aldermen and one supervisor, to represent his ward in the county board of supervisors of his county, for each ward. All other officers necessary for the proper management of the affairs of said city shall be elected by the common council.

Terms of office—when to begin.

SECTION 2. The term of office of every officer elected under this act shall commence on the second Tuesday in April of the year for which

such officer is elected, and the term of office of all officers elected or appointed by the common council shall expire with that of the members of the body electing or appointing them, and all elective officers except justices of the peace and police justices, shall, unless otherwise provided, hold their respective offices for one year, and until their successors are elected and have qualified; said justices of the peace and police justice shall hold their respective offices for two years, except as hereinafter provided.

SECTION 3. All elective officers shall be qualified electors of said city, and the mayor, assessor and aldermen shall be freeholders in said city.

Officers must be freeholders.

SECTION 4. All persons qualified to vote at general elections for state officers, and who shall have resided ten days next prior to any election in the ward where they shall offer to vote, shall be deemed qualified electors of said city, and may vote in the ward in which they reside, and if any person's right to vote be challenged, or if the inspectors of election shall have reason to believe that any person presenting himself to vote does not possess the qualifications of an elector under this act, the inspectors shall decide under the challenge or upon the qualifications of the person as an elector, in the same manner as is required by law at general elections.

Qualified voters.

SECTION 5. The election in said city shall be held and conducted by the aldermen and supervisors of each ward, who shall be the inspectors of election for their respective wards, and shall take the usual oaths or affirmations, as by the judges and inspectors of elections, and shall have the power to appoint clerks of such elections, and to administer the necessary oaths, and in case of the absence of any or all of the inspectors of the ward at the time of opening the polls, the voters present shall select some person or persons to act in their places as inspectors of election. Said election shall be held and conducted in the same manner and under the same penalties, and vacancy in the boards of inspectors thereof filled as required by the laws of this state regarding elections.

Regarding elections.

SECTION 6. All elections by the people shall be by ballot, on which the names of all the persons voted for shall be written or printed; when two or more candidates of an elective office shall re-

Elections to be by ballot.

ceive the highest and an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council, and at such time and in such manner as the common council shall direct.

Penalty for illegal voting.

SECTION 7. If a person who is not a qualified voter of said city shall wilfully and knowingly vote at any election, or if any person shall vote more than once at any election, he shall forfeit and pay a sum not exceeding fifty dollars, and not less than twenty-five dollars to be recovered in the same manner as other fines and penalties are recovered under this act, and shall also incur all the pains and penalties provided by any general laws of this state for illegal or fraudulent voting. If any inspector shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns of an election, or if any clerk shall wilfully omit to write down the names of every voter as he votes, or shall wilfully make untrue or incorrect counts or tallies of votes, such inspector or clerk shall be liable to indictment or punishment by information, and on conviction thereof shall forfeit and pay a sum not exceeding five hundred dollars or less than one hundred dollars.

Determination of result.

SECTION 8. When the election shall be closed, the inspectors shall proceed to count the votes cast for each and every candidate voted for, and shall make a return of the votes cast in their election precinct for each and every office, and the number of votes cast for each and every person for each and every office, which shall be subscribed by the inspector, and shall be forthwith delivered to the city clerk, and within one week after such election the council shall meet and canvass said returns and declare the result as it shall appear from the same. The clerk shall thereupon immediately give notice to the persons elected of their election.

Election of city clerk.

SECTION 9. At the first regular meeting of the common council in each year, or as soon thereafter as may be, said council shall elect a city clerk and a street commissioner.

May expel any of its own number.

SECTION 10. The common council shall have power for due cause to expel any of their number. The mayor shall have power to suspend the marshal, or any other police officer or watchman

appointed by the council when complained of, until the council shall take up his case and dispose of it. He shall also have power to fill any vacancy thus created for the time being. All officers appointed by the mayor or common council may be removed at the pleasure of the council by a two-thirds vote of the aldermen elect, the accused in all cases to be heard in his defense, with privilege of introducing such witnesses in his behalf as may be allowed, according to the rules of evidence in courts of law.

SECTION 11. Any officer removing from the city, or any ward officer removing from the ward for which he is elected, or any officer who shall neglect or refuse for ten days after notice of his election or appointment to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy as herein provided.

Vacation of office.

SECTION 12. Whenever a vacancy shall occur in the office of mayor, such vacancy shall be filled by a new election, which shall be ordered by the common council within twenty days after such vacancy shall occur. Any vacancy happening in any other office shall be filled by the common council. The person elected or appointed to fill any vacancy shall hold his office and discharge the duties thereof for the unexpired term, except in cases of justice of the peace or police justice, whose appointment shall continue only until the next annual city election, when the vacancy shall be filled for the remainder of the term by an election.

Vacancies how filled.

SECTION 13. Special elections to fill vacancies, or for any other purpose, shall be held and conducted in the same manner, and the returns thereof shall be made in the same form and manner as general or annual elections, and within such time as may be prescribed by ordinance.

Special elections.

SECTION 14. Each supervisor shall be, when so elected, a resident of the ward for which he is elected, and in case, for any reason the said supervisor shall be incapacitated or unable to attend any meeting of said county board of supervisors, one of the aldermen of his said ward to be designated by the mayor, shall perform the duties of said supervisor; and for the time being shall, for

Supervisor to be resident of ward.

all purposes, be a member of the county board. No supervisor shall receive any compensation from the city for any of his services, unless such service be specially authorized by the common council, and provision for the payment of the same be made by them.

CHAPTER III.

OFFICERS AND THEIR POWERS.

Officers, their powers and duties.

SECTION 1. Every person elected or appointed to any office under this act, except justices of the peace and police justice, shall, before he enters upon the duties of his office, take and subscribe the oath of office prescribed by the constitution, and file the same, duly certified by the officer taking the same, with the city clerk; and the marshal, constable, street commissioner, 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 Altoona 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, liabilities or exemptions, and said bond shall contain such penal sums and such conditions as the common council may deem proper. The treasurer, before entering upon his duties, shall also execute a bond with at least two sureties. The penal sum expressed in such bond shall exceed the amount of the last annual tax roll, and each surety shall swear that he is worth a certain amount over and above all debts, liabilities or exemptions, and the aggregate of such shall at least exceed the penal sum specified in such bond. The council may, from time to time, require new or additional bonds from the treasurer or other officer of the city, and the council may remove from office any officer refusing or neglecting to give the same. Justices of the peace and police justices shall qualify in the same manner as in towns, except that their bonds shall be approved by the common council.

Duties of the mayor.

SECTION 2. The mayor shall, when present, preside over the meetings of the common council. He shall take care that the laws of the state and

the ordinances of the city are duly observed and enforced, and that all other executive officers of the city, discharge their respective duties. He shall, from time to time, give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and the head of the police force of the city; and in case of a riot or other disturbance, he may appoint as many special or temporary constables as he may deem necessary. He shall have the authority to remove the marshal or street commissioner for inefficiency or neglect of duty, and appoint some one to fill the vacancy; but such removal and appointment shall be subject to the ratification or approval of a majority of the common council. The mayor shall have a vote in the council only in case of a tie.

SECTION 3. At the first meeting of the council after its election in each year it shall proceed to elect by ballot one of its members president, and in the absence of the mayor the said president shall preside over the meetings of the common council; and during the absence of the mayor from the city, or his inability for any reason to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of the mayor. In case both the mayor and president shall be absent from any meeting of the common council, it shall proceed to elect one of its number a temporary presiding officer, who for the time being shall discharge all the duties of the mayor. The president or temporary presiding officer, while presiding over the council or performing the duties of mayor, shall be styled acting mayor, and any acts performed by them shall have the same force and validity as if performed by the mayor, but the president of the council or temporary presiding officer acting as mayor, shall sign no warrant or other proceeding whatever which the mayor heretofore has refused to sign.

Election of
president of
council.

SECTION 4. The clerk shall keep the corporate seal, and all papers and records of the city, and keep a full record of the proceedings of the common council, at whose meetings it shall be his duty to attend. Copies of any and all books, papers, instruments or documents filed in his office, and transcripts from the records of the pro-

Duties of the
city clerk de-
fined.

ceedings of the common council, certified by him under the corporate seal of the city, 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 accurate account thereof in books provided for that purpose, and perform all necessary acts required of town clerks. Whenever the clerk and his deputy shall be absent from any meeting, the common council may appoint a clerk pro tem, who for the time being shall be vested with the powers and duties of the clerk. The city clerk shall have power and authority to administer oaths and affirmations, and may appoint a deputy in writing under his hand; and file such appointment in his office, and such deputy in case of absence or disability of the clerk shall act in his place.

Duties of the treasurer defined.

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

Duties of city marshal

SECTION 6. The city marshal shall possess all the powers and authority of a constable in towns and be subject to the same liabilities. It shall be his duty to execute and return all writs and processes to him directed, and when necessary in criminal cases, or for the violation of any ordinances of said city or laws of this state, may pursue and serve all writs and processes in any part of the state of Wisconsin. It shall be his duty to suppress all riots,

disturbances and breaches of the peace, to apprehend with or without warrant, any person in the act of committing any offense against any ordinance of said city or laws of this state, and forthwith bring such person before competent authority for examination; and for such service he shall receive such fees as are allowed by law to constables for like service. He shall do and perform all such duties as may lawfully be enjoined on him by the mayor, common council or ordinances of said city. He shall have power to appoint one or more deputies, to be approved by the city council, but for whose official acts he shall be responsible, and of whom he may require a bond for the faithful discharge of their duties. The marshal shall be appointed by the common council as soon as it shall organize, and it may, at the time of his appointment, or afterwards, allow him such further compensation than above described, as it may deem just.

SECTION 7. The common council may at its first meeting, elect a city attorney to conduct the law business of the corporation, but the council may omit such election, and when necessary, provide or employ such an attorney or counsel as it may desire. The city attorney, if there be one, shall, when required, furnish opinions upon 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, 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 and any member or committee of the common council. It shall also be the duty of the city attorney, when required by the common council, to draft all ordinances, bonds, contracts, leases, conveyances and other instruments in writing necessary to the business of the city government, and to perform such other duties as may be prescribed by the charter and ordinances of said city. He shall receive such reasonable compensation as may be agreed upon, for services rendered.

Duties of
attorney
defined.

SECTION 8. The common council shall have power, from time to time, to require other and further duties to be performed by any officer whose

Other duties
may be re-
quired of.

duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, and to fix the compensation of all officers elected or appointed by it, where the compensation is not fixed by the statute or this charter. The council shall, at least one week before the annual charter election in each year, fix by resolution the salary which shall be paid to the clerk and assessor for the ensuing year, and such salary shall not be increased or diminished during the term of the officer elected or appointed; neither shall extra compensation be granted, except by unanimous vote of the council, approved by the mayor. For the year 1887, such compensation shall be fixed by the common council within ten days after it shall organize.

Penalty for failure to deliver to successor.

SECTION 9. If any person having been an officer in said city, shall not, within ten days after notification and request, deliver to his successor in office all property, books, papers and effects of every description in his possession belonging to said city or pertaining to the office he may have held, he shall forfeit and pay to the use of the city one hundred dollars, besides all damages, caused by his neglect or refusal so to deliver, and such assessor may recover possession of such books, papers and effects in the manner prescribed by the laws of this state.

Shall not be interested in any job.

SECTION 10. No mayor or alderman shall be a party to, or interested in any job or contract with the city, and any contract in which they, or either of them, may be so interested shall be null and void; and in case any moneys 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 mayor or aldermen interested in the same, or either or any of them.

Officers of the peace.

SECTION 11. The mayor or acting mayor, and each and every alderman, justice of the peace, police justice, marshal, constable and watchman shall be officers of the peace, and may command the peace and suppress in a summary manner all rioting and disorderly behavior within the limits of the city; and for such purposes may command the assistance of all by-standers and other citizens; and if any person, by-stander or

citizen shall refuse to aid in maintaining the peace, when so required, every such person shall forfeit and pay a fine of five dollars; and in cases where the civil power may be required to suppress riotous or disorderly behavior, the superior or senior officer present, in the order above mentioned in this section shall direct the proceedings.

SECTION 12. The police justice shall have sole and exclusive jurisdiction of all offenses against the provisions of this charter and ordinances, by-laws and police regulations of the common council of the city, and in cases of contempt, the police justice shall have the same powers and authority as justices of the peace. He may administer oaths and take acknowledgments, the same as the justices of the peace. The police justice shall be entitled to receive for his services the same compensation in fees as is allowed by law to justices of the peace for similar services and such further compensation as the common council may allow and prescribe. In case of the absence, inability or sickness of the police justice, the mayor, by warrant, may authorize any justice of the peace within the city to perform the duties of police justice. Appeals and writs of certiorari may be taken from the police justice in the same manner as from justices of the peace. All fines and penalties collected by any justice in such cases shall be paid over to the city treasurer, except those for refusing to pay poll tax, which shall be paid over, on demand, to the street commissioner. Each justice of the peace and police justice shall report to the common council on the first Monday in January, April, July and October in each year, a statement of all such fines and penalties collected by him, and at the same time pay over the amount thereof to the city treasurer, except as above mentioned.

Jurisdiction of
police justice.

SECTION 13. 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.

How officer
may resign.

SECTION 14. No alderman or other city officer shall be accepted as surety upon any bond, note or obligation made to the city, nor shall any officer, required to give bonds as aforesaid, enter

Can not be
accepted as
surety.

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

CHAPTER IV.

THE COMMON COUNCIL — ITS POWERS AND DUTIES.

Common council.

SECTION 1. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be: "The mayor and common council of the city of Altoona do ordain." The common council shall hold its first annual meeting in each year on the third Monday in April, and thereafter stated meetings upon the first Monday of each and every month during the year. A majority of the aldermen shall constitute a quorum.

Special meetings—how called.

SECTION 2. The common council shall hold special meeting by order of the mayor or written request of two aldermen, by notice to each of the members, to be served personally or left at their usual place of business or abode. The common council shall determine the rules of its own proceedings, and be the judge of the election and qualification of its own members, and have power to compel the attendance of absent members, and to enforce its rules, to punish by fine, by a vote of two-thirds of its members, any member for disorderly or contemptuous conduct, and by a vote of two-thirds of its members, may expel any member for cause.

Management and control of finances, and other powers.

SECTION 3. The common council shall have the management and control of the finances, and of all property of the city, and shall likewise, in addition to the power herein vested in it, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice and immorality, for the prevention of crime, and for the benefit of trade, commerce and health thereof, as it shall deem expedient; declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of said ordinances, rules or by-laws; and such ordinances,

rules and by-laws are hereby declared to be and have the force of law; provided, that they be not repugnant to the constitution and laws of the United States, or of this state, and for these purposes shall have authority, by ordinance, resolution or by-laws:

1. To license, regulate, suppress and prohibit the exhibition of common showmen or shows of any kind, or exhibitions of caravans, circusses or theatrical performances, billiard tables, bowling saloons, and to provide for the abatement and removal of all nuisances under the ordinances or at common law, and to grant licenses; and may grant licenses for and regulate groceries, taverns, victualing houses, and all persons vending or dealing in spiritous, vinous or fermented liquors, and may prohibit and suppress the same; provided, that the sum to be paid for any license shall not be less than the minimum nor greater than the maximum sums to be paid for any such licenses, as fixed by the general excise laws of the state of Wisconsin.

Licenses of all kinds.

2. To restrain and prohibit all description of gaming and fraudulent devices and practices, and all playing of cards, dice, and other games of chance for the purpose of gaming in said city, and to restrain any person from vending, giving away or dealing in any spirituous, fermented or vinous liquors or drinks unless duly licensed by the common council.

Gaming.

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

Riots, disturbances.

4. To compel the owner or occupant of any grocery, cellar, tallow chandler's 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 may be necessary for the health, comfort and convenience of the inhabitants of said city.

Cleanse unwholesome places.

5. To direct the location and management of slaughter-houses and markets, and to regulate the storage, safe keeping and conveying of gun-powder or other combustible materials.

Slaughter-houses.

6. To prevent the incumbering of the streets, sidewalks, lanes, alleys and bridges with car-

Incumbering streets.

riages, carts, wagons, sleighs, boxes, lumber, fire-wood, logs, or any other material or substance whatever, and to prevent the loading and unloading of lumber, logs, shingles, bolts or other material or substances, of whatever name or kind upon the bridges of said city.

Horse-racing,
etc.

7. To prevent horse-racing, immoderate riding or driving in the streets and upon any and all bridges, and to regulate the places of bathing and swimming in the waters within the limits of said city.

Restrain cattle.

8. To restrain, regulate or prohibit the running at large of cattle, horses, mules, swine, sheep, goats, poultry and geese, and to authorize the distraining, impounding and sale of the same for the penalty incurred and the costs of the proceedings, and also to impose penalties on the owners of any such animals for a violation of any ordinance in relation thereto.

Dogs.

9. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner, if such animal shall be found out of the inclosure or immediate care of its owner or keeper, and to impose fines and penalties upon such owner or keeper for the violation of any ordinance of said city restraining dogs from running at large.

Putrid
carcasses.

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

Omnibuses,
hacks, etc.

11. To regulate, license and suppress omnibuses, hacks, cabs, drays and carts, and to regulate the charges of omnibus drivers, hackmen, cabmen, draymen and cartmen in the city.

Board of
health.

12. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and the return of bills of mortality, and to exempt burial grounds set apart for public use, from taxation.

Bread.

13. To regulate the size and weight of bread

and to provide for the seizure and forfeiture of bread baked contrary thereto.

14. To prevent all persons from riding or driving any horse, ox, mule, cattle or other animals on the sidewalks in said city, or in anyway doing any damage to such sidewalks. Driving on sidewalks.

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

16. To restrain drunkards, immoderate drinking or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same. Drunkenness, etc.

17. To restrain and regulate runners and solicitors for stages, public houses and other establishments, and to make rules and ordinances for the government and regulation of the police of said city. Runners and solicitors.

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

19. To license and regulate butchers' stalls, shops and stands for the sale of game, poultry, butchers' meat, butter, fish and other provisions. Provisions.

20. To regulate the place and manner of the weighing, measuring, and selling of fuel, hay and lime, and to appoint suitable persons to superintend and conduct the same. Produce.

21. To compel the owners or occupants of buildings or grounds to remove snow, ice, dirt, ashes or rubbish from the sidewalks opposite thereto, and to compel such owners or occupants to remove from the lots owned or occupied by them, all such substances as the board of health may direct, and on their default to authorize the removal or destruction thereof, by some officer of the city at the expense of such owners or occupants. Removal of rubbish, etc.

22. To regulate, control and prevent the landing or passing through said city of persons from cars or stages who are infected with contagious Infectious diseases.

or infectious diseases or disorders; and to make such disposition of such persons and their property as to preserve the health of said city.

Auctioneers.

23. To license auctioneers and transient dealers in accordance with the laws of the state, and to regulate the time, place and manner of holding public auctions and vendues; and to require the payment into the city treasury of a certain percentage of amounts received from sales by auctioneers and transient dealers, or the payment of a license, or both, as the common council shall determine.

Appoint officers.

24. To appoint the city clerk, watchmen and policemen, and prescribe their duties.

How ordinances passed.

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

SECTION 5. No ordinance or resolution 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 or acting mayor for the time being.

Power to veto.

SECTION 6. The mayor shall have power to veto any ordinance, act or resolution, passed by the common council, by notifying the common council of his objections thereto, at any time within seven days after the passage of such ordinance or resolution. In case of no session of the common 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 clerk a copy of his objections, and the clerk

shall thereupon call a special meeting of the council in the manner provided by section 2, of this chapter, to consider such veto and objections; and in case the council shall not, within one week after the receipt of such objection, or such filing with the clerk, re-enact such ordinance or pass such resolution by the vote of three of the aldermen elect, 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 signed it.

SECTION 7. No vote of the common council shall be reconsidered or rescinded at a special meeting, unless at such special meeting there be present as large a number of aldermen as were present when such vote was taken.

Reconsidering
votes.

SECTION 8. 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 or houses of ill-fame are hereby declared and shall be deemed a public or common nuisance.

Power to abate
nuisances.

SECTION 9. The common council shall examine audit and adjust the accounts of the clerk, treasurer, street commissioner, marshal, and all other officers and agents of the city at such time as it may deem proper, also at the end of each year, and before the time for which the officers of said city are elected or appointed, shall have expired; and the common council shall require each and every such officer and agent to exhibit his books, accounts, moneys and vouchers, for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of the council, in the discharge of his duties in pursuance of this section, or shall wilfully neglect or refuse to render his accounts or present his moneys, books and vouchers to said council, it shall be the duty of the common council to declare the office of such person vacant; and the common council may order suits and proceedings at law against any officer or agent of said city who may be delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlements and adjustments.

Examine,
audit and ad-
just accounts.

Standing committees.

SECTION 10. The mayor, at the first regular meeting of the common council in each year, shall appoint standing committees as follows: On streets and sidewalks, on bridges, on accounts, on finances and taxation, on ordinances, on fire department and public buildings and grounds, from the common council; and also a board of health and fire wardens from the members of the common council or otherwise; and such other committees as the ordinances of said city or common council may determine.

No compensation or salary for mayor.

SECTION 11. No compensation or salary shall be paid to the mayor or any alderman of said city, except for services as inspectors of election and on board of review.

Work to be let to lowest bidder.

SECTION 12. All contracts for work ordered by the common council of said city in which the amount thereof shall exceed the sum of one hundred dollars, shall be let to the lowest reasonable and responsible bidder who shall have complied with the requirements hereinafter set forth; all bids and proposals shall be sealed and directed to the common council, and shall be accompanied with a bond to the city of Altoona in the penal sum equal to the amount of the bid, which bond shall be signed by the bidder and by a responsible surety or sureties, who shall justify that he is worth the sum mentioned in such bond, over and above all his debts, liabilities and exemptions; such bond shall be conditioned that such bidder will execute a contract at such time as the common council shall require, with satisfactory sureties, to perform the work specified; and in case of failure, said bond may be prosecuted in the name of the city, and the judgment recovered thereon for the full amount of the penalty thereof; as liquidated damages, in any court having jurisdiction of the action.

CHAPTER V.

OPENING OF STREETS, ALLEYS, ETC.

Laying out, opening streets, etc.

SECTION 1. The common council shall have power to lay out public squares, grounds, streets, and alleys, and to enlarge and extend the same, and to use the land in said city for the purposes of

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

SECTION 2. Such notice shall state that on a day therein to be named, not less than ten days from the service of such notice or the expiration of such publication, as the case may be, application will be made to the county judge of the county of Eau Claire, or court commissioner in and for said county, and if the latter, stating his name and residence, for the appointment of six jurors to view said premises and to determine whether it will be necessary to take or use the same for the purposes specified in said petition, and if so, to assess damages; but the officer to whom such application is made must not be an owner or otherwise interested in any of the lands proposed to be taken or used.

What the notice shall state.

SECTION 3. Upon presentation of such application, and upon proof of the publication or service

Jurors to be appointed.

of the notice hereinbefore required, the said judge or court commissioner, as the case may be, shall thereupon appoint as jurors six reputable freeholders, residents of said city, and not interested in the result of such application. The said judge or court commissioner shall thereupon issue his precept, directed to said jurors, requiring them within thirty days from the date thereof, to view such premises to be specified in said precept, and to make returns under their hands to the common council whether in their judgment it is necessary to take or use said premises for the purpose specified in such application.

In case juror is disqualified. —

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

Jury to view the premises.

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

Report of proceedings to be made.

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

In case it be necessary to take premises, what report shall be made.

SECTION 7. Should the jurors report that it is necessary to take such premises, the common council shall, if it approves such report, enter an order among its proceedings, confirming said report and directing the same jurors within one month thereafter, or such further time as may be necessary, to again view said premises for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of the property proposed to be taken, and

to assess and return within the time limited such damages to the common council; and after the jurors shall have made their report as to the taking or use of any lands or premises under this act, and the same has been confirmed, the common council shall have power to appoint new jurors in the place of any who shall neglect or refuse to serve in ascertaining the amount of compensation as above.

SECTION 8. If there should be any building, standing in whole or in part upon the lands to be taken, the jurors, before proceeding to make assessments, shall first estimate and determine the whole value of each building to the owner, aside from 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.

In case of building.

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 the publication in a newspaper published in said county for three successive weeks; such notice shall specify the building and the award of jurors. It shall also require the parties interested to appear by a day therein named or give notice of their election to the common council either to accept the award of the jurors and allow such building to be taken, with the land appropriated, or of their intention to remove such building, at the value set thereon by the jurors to remove. If the owner shall agree to remove such building, he shall have such time for that purpose as the common council may allow.

Ten days' personal notice shall be given.

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

In case owner refuses to take building.

Award of jurors.

SECTION 11. The said jurors within the time limited shall view and examine the premises proposed to be taken and used, and after hearing such testimony as may be offered, and which shall be reduced to writing by one of said jurors they shall proceed to make their assessment and to determine and appraise to the owner or owners the value of the real estate so proposed to be taken or used, and the injury arising to them respectively, in consequence of the taking or using thereof, which shall be awarded to such owner, respectively, as damages, after making due allowance therefrom for any benefit which such owner may respectively derive from such improvement. In the estimate of damages to the lands, the jurors shall include the value of the building or buildings (if the property of the owners of such lands) as estimated by them as aforesaid, less the proceeds of the sale thereof; or if taken by the owner at the value to remove, in such case they shall only include the difference between such value and the whole estimated value of such building or buildings.

Assess damages.

SECTION 12. The jurors shall assess the damages to every person separately so that their return shall show how much is to be paid for each, and the amount shall be placed opposite their respective names.

In case land or buildings belong to different parties.

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

Award to be signed by jurors.

SECTION 14. The award of the jurors shall be signed by them and returned, together with the testimony taken, to the common council within the time limited, in their order of appointment, and shall be final, unless appealed from in the manner hereinafter provided, and the damages allowed by such award shall be a legal charge against the city.

Money must deposited or be tendered.

SECTION 15. The land required to be taken or used for the purposes mentioned in this act, shall not be appropriated until the damages awarded

to the owner thereof shall be paid or tendered to the owner or his agent, or in case said owner or agent cannot be found or is unknown, deposited to his or their credit in some safe place of deposit to be determined by the common council, and then, and not before, such lands may be taken or used and appropriated for the purposes required, and the lands shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds heretofore opened or laid out, except in cases where the lands are only used for the purpose of sewers and drains, and then in that case, the said city shall have the power to go upon said premises at any and all times for the purpose of examining and repairing said sewers and drains.

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

All covenants to cease when land is taken.

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

The same when only a part is taken.

SECTION 18. The damages assessed on each separate lot or tract shall be paid, tendered or deposited as herein required, within one year from the confirmation of such assessment and report, and if not so paid, tendered or deposited, all the proceedings in any such case as to any lot or tract on which they are so unpaid shall be void.

Damages on each separate tract to be tendered.

SECTION 19. When any known owner of lands or tenements affected by any proceedings under this act, shall be an infant or labor under disa-

In case of infant or other disabilities.

bility, the judge of the circuit court of Eau Claire county, or the county judge may, upon the application of the common council, or such party by his next friend, appoint a guardian for such party, and all notices required by this act shall be served upon such guardian in the same manner as if he were the party interested.

Jurors must be freeholders.

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

How appeals may be made.

SECTION 21. The city council, or any party interested, may, within twenty days from the return of the jurors to the common council of the benefits and damages so assessed, appeal to the circuit court of Eau Claire county from the decision of said jurors so far as it affects the interests of said appellants. Notice of said appeal shall be filed by the appellant with the clerk of said court within the twenty days above mentioned, and the issue on such appeal shall be made up and tried in said court in such manner as said court shall direct. If any party other than the common council shall file such notice of appeal, they shall before the trial thereof, give a bond in such sum and with such sureties as shall be approved by said court, conditional to pay all costs of said appeal if the appellant shall fail to obtain a more favorable judgment than the award appealed from.

In case damages shall be awarded or demanded.

SECTION 22. In case the amount of damages awarded by the jurors shall be increased or diminished upon the final determination of the appeal, the city clerk shall attach to said award a copy of the final judgment therein, and such award shall be considered (as to such difference) amended thereby.

Accurate surveys to be made.

SECTION 23. Whenever any streets, alleys or public grounds shall be laid out or extended, or sewers or drains constructed, under the provi-

sions above, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk.

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

Vacating
alleys.)

SECTION 25. The foregoing provisions shall not apply to unplatted lands. Roads or streets may be laid out by the common council through unplatted lands in the same manner as roads are laid out by the supervisors of towns.

Does not apply
to unplatted
lands.

SECTION 26. All the foregoing directions given in this chapter shall be deemed only directory, and no errors, irregularities or informality in any of the proceedings under the provisions of this chapter of this act, not affecting substantial justice, shall in any way affect the validity of the proceedings.

Directions
only directory.

CHAPTER VI.

POLL TAX.

SECTION 1. The common council of said city shall have, and it is hereby granted power to tax annually each male inhabitant within the corporate limits of said city, between the ages of twenty-one and fifty years, a sum not to exceed one dollar and fifty cents, to be denominated a poll tax, and to be appropriated to the improvement of streets, roads, alleys and cross-walks in said city.

Poll taxes.

SECTION 2. On or before the twentieth day of May in each year, the city clerk shall make out a list of the names of all male persons over the age of twenty-one and under the age of fifty years, liable to pay such poll tax, with the amount thereof set opposite to each person's name, and submit the same to the common council for correction. When such list is correctly made out, and on or before the first day of June in each year, the board shall, by order to be signed by the mayor and clerk and annexed thereto, direct the same to be delivered forthwith to the street

Poll tax list.

commissioner for collection. The street commissioner shall forthwith proceed to the collection of such tax, and shall demand the same once of each person named in the list, and if any person neglects to pay the same for two days thereafter, then such street commissioner shall in the name of the city, sue for and collect such tax with fifty per centum damages on the same, with costs of suit, before a justice of the peace of the city or police justice and the street commissioner, while said list is in his hands for collection, may put upon the same the names of all such persons liable to such tax as may have been omitted therefrom, who shall then be liable, the same as if their names were originally placed in such list; and the common council may, by resolution, direct the expenditure of not to exceed one-third of the poll tax, upon the highways leading into said city outside of the corporate limits.

Duty of street commissioner.

SECTION 3. The street commissioner shall perform such labor on the streets, bridges, crosswalks and highways in said city as he may be required to be by the common council, and he shall be provided with a book by the city clerk, in which he shall keep an accurate account of all moneys coming into his hands by virtue of his office, the amount received and disbursed by him, the name of every person from whom labor or money is due, the amount received and disbursed by him, the amount paid in money or labor, and a correct account of all expenditures by him made as street commissioner; the book containing the account so kept shall at all times when required be furnished for the inspection of the mayor or common council, and ten days before the expiration of his term of office shall be handed to the city clerk to be filed in his office for the inspection of the tax-payers of said city, and he shall return all unpaid taxes in the manner and form prescribed for such returns by the overseer of highways in towns; and he shall receive such compensation for his services as the common council shall determine.

New and accurate survey to be made.

SECTION 4. The common council may, at any time cause a new and accurate survey to be made of the lines and boundaries of all streets, alleys, sidewalks, public grounds and blocks, and may

cause to be established such permanent landmarks as it may deem necessary, and to cause an accurate plat or plats thereof to be made and certified to by the surveyor, which shall be filed in the office of the city clerk and recorded in the office of the register of deeds of the county of Eau Claire. The surveys and landmarks so made and established shall be prima facie evidence of the lines and boundaries of all streets, alleys, sidewalks, public grounds and blocks in all cases in which they shall be drawn into controversy in all courts in this state.

SECTION 5. The common council may, at such time as it may deem proper, establish the grades of all streets, alleys and sidewalks of said city, or any or either of them, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the register of deeds of Eau Claire County; and should the grade so established be at any time thereafter altered, all damages, costs and charges therefor shall be paid by the city to the owner of any lot or parcel of land, or tenement which may be affected or injured in consequence of the alteration of such grade; provided, however, that nothing in this section contained shall be so construed as to prevent the street commissioner of said city from ordering or causing to be done the grading of any street to a temporary grade to be established by such commissioner.

SECTION 6. The common council may cause any street, or any part of any street, not less than sixteen rods in length, to be graded, paved, macadamized, or otherwise improved, or any sidewalk or gutter to be built, upon a petition therefor in writing, signed by at least a majority of all the owners of real estate bounding both sides, and of the owners of at least one-half the frontage of such street to be improved; or order any sidewalk or gutter on one side of the whole or any part of a street to be built on the petition of a majority of the owners of the frontage on such side along which said sidewalk or gutter is proposed to be built, and may order any sidewalk or gutter previously built to be put in repair, or built when necessary, without petition.

SECTION 7. For the purpose of so improving any street or building or repairing any sidewalk

Tax to pay
expense of
constructing
sidewalk.

or gutter, the common council may levy and cause to be collected upon the lots, tracts, or parcels of ground on such street or part of street improved, or on the side thereof where only such sidewalk or gutter is to be built, and upon the owners thereof, a tax sufficient to pay the expense of constructing such improvement as ordered, opposite such property, to the center of the street or such proportion thereof, not less than half, as they may deem justly assessable to such property, if they should think the whole ought not to be so assessed, in which case the remainder of such expenses shall not be paid from the city treasury; except every such tax for repair shall be for the entire cost of repairs in front of the property so assessed. If any tax levied under this section shall prove insufficient to pay the cost or proportion thereof assessed to such property, the common council may levy an additional tax thereon to make good such deficiency.

List to be
delivered to
street commis-
sioner.

* SECTION 8. Whenever the common council shall levy any such tax, as specified in the preceding section, it shall make out and deliver to the street commissioner of such city a list of the persons, and a description of the property taxed, together with a warrant, signed by the mayor and clerk, for the collection and expenditure of such tax, and thereupon the street commissioner shall notify the person named in such tax list, by publishing a notice two weeks in some newspaper published in said county, and shall specify in such notice a time or times, not less than twenty days nor more than forty days from the date thereof, when the person charged with taxes in such list may pay their taxes in labor, materials or in money, and the persons charged with such tax may, at such time and place, as may be required by the said street commissioner, pay their taxes in labor or materials; provided the labor or materials offered in payment of such taxes are such as may be required by the said street commissioner, and done and furnished to his satisfaction.

Certified list to
be given at end
of forty days.

SECTION 9. At the expiration of forty days from the date of said notice given by said street commissioner, he shall make out and deliver to the city clerk a certified list of the lots, pieces or parcels of land in said city upon which any tax remains unpaid, with the amount of such delinquent

tax upon each of such lots or parcels of land, and the said clerk shall add the said delinquent taxes to the next tax roll opposite to the description of the proper lots, pieces and parcels of land therein; and such delinquent taxes shall be collected with and in the same manner as other taxes in said city.

SECTION 10. Whenever any lot, parcel or tract of land shall be returned delinquent for any such tax as hereinbefore provided, the common council may cause the work to be done at the expense of the city, to be re-imbursed by such tax when collected.

Delinquent lots.

SECTION 11. Whenever a sidewalk or gutter shall be out of repair, and 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 five dollars in front of any one lot to repair the same, it 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 and block or piece and parcel of land in front of which said work was done, verified by his oath; and shall deliver the same to the city clerk, and said clerk shall forthwith present the same to the owner of such lot, piece or parcel of land, if a resident of the city of Altoona, for payment, and if the owner of such lot, piece or parcel of land shall neglect or refuse to pay the same for ten days, then the clerk shall report the same to the common council, and the 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 levied for the construction of sidewalks and gutters. In case the owner of such lot, piece or parcel of land does not reside in the city of Altoona, the said street commissioner shall return said account to the common council with his certificate stating that fact; and the council shall thereupon levy a special tax to pay the same in the manner in this section provided.

Immediate repair of dangerous sidewalks.

SECTION 12. The common council shall have the power to require the owner of any lot or parcel of ground in the city, to set out ornamental trees on the street or streets fronting on the same, and on default thereof to cause the same to be

Ornamental trees.

done and to levy a special tax upon such lot or parcel of ground to pay the expenses of the same.

CHAPTER VII.

FIRE DEPARTMENT.

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 material that shall not be considered fire-proof, shall be erected, repaired or moved, and to direct that all and any buildings within the limits prescribed shall be made and constructed of such fire-proof material, and in such manner as they may ordain, and to prohibit the removal of buildings into such fire limits, or the removal of any building or buildings situated or located within such fire limits, and to prohibit the repairing of wooden buildings within the fire limits, when the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damage.

Dangerous construction of chimneys, etc.

SECTION 2. The common council shall have power to regulate the building, construction and condition of chimneys, fire-places, hearths, stoves, stove-pipes, ovens, boilers and apparatus used in or about any building, and to cause the same to be removed or placed in a safe and secure position when considered dangerous; to prevent the deposit of ashes in unsafe places; to require the inhabitants to provide as many fire buckets and in such manner and times as they shall prescribe; and to regulate the use of them in time of fire; to regulate and prevent the carrying on of any manufactories dangerous in causing and promoting fires; to compel the owners and occupants of buildings to have scuttles in the roofs, and stairs or ladders leading to the same. To authorize the mayor, aldermen and fire-wardens and other officers of the city to keep away from the vicinity of the fire all idle and suspected persons, and to compel by-standers to aid in the extinguishment of fires and in the preservation of property exposed to danger thereat, and generally to establish such

regulations for the prevention and extinguishment of fires as the common council may deem expedient, and enforce the provisions of this chapter and the ordinances under it by suitable penalties.

SECTION 3. The common council shall have power to purchase fire-engines and other fire apparatus, and to authorize the formation of fire-engine, hook and ladder and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded, and to prohibit their meeting as such when disbanded. Each company shall be officered and governed by their own by-laws; provided, such by-laws be not inconsistent with the laws of this state, or with the ordinance and regulations of the city. Each active member of any company in said city shall be exempt from serving on juries and from poll tax and military duty, except in case of war, invasion or insurrection, and whenever a member of a fire, hook and ladder, bucket and hose company shall have served therein for five years, he shall be entitled to a discharge, signed by the mayor, and shall thereafter be exempt as aforesaid.

Power to purchase fire-engines.

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

Tax for fire purposes.

CHAPTER VIII.

SCHOOLS.

SECTION 1. School district number ten of the town of Washington, now embracing the territory to be included in the city of Altoona and a part of the town of Washington, shall not be affected by this act, and the management thereof shall remain the same as heretofore, except that the corporate name of said school district shall hereafter be school district number one of the city of Altoona; provided, that the common council of said city and the town board of said town may alter

School district.

said school district by setting off from it the territory in said town into other school districts in said town, in the same manner that the common council of cities, the trustees of villages and the town boards of towns may now alter school districts, which lie partly in a city or village, incorporated by special act, and partly in an adjoining town or towns, under the provisions of the revised statutes of 1878, and the amendments thereto.

CHAPTER IX.

MISCELLANEOUS PROVISIONS.

Settlement
with town—
how made.

SECTION 1. It is hereby made the duty of the common council of said city and the board of supervisors of said town of Washington, to meet together at some convenient place on or before the first Monday of May, 1887, 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 Washington, and said common council of said city and said board of supervisors of the town of Washington, shall at said time make a just, equitable and fair division of the amount of bonded indebtedness, if any be then due or to become due from said town, whether of principal or of 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 Washington, 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 as to be paid by said town and city, the said supervisors and the said common council shall take the last preceding assessment roll of the said town, and allot to said city and town, respectively, the amount of bonded indebtedness due or to become due to be paid by each in proportion as the assessed valuation of such city bears to the entire value of said city and town.

SECTION 2. If the common council of said city and board of supervisors of said town 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 in and for the county of Eau Claire, upon application made to him by either of said bodies, five days' notice having been given to the other body previously thereto, 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, of their oaths to faithfully and fairly adjust and settle all matters of dispute between said city and town as hereinbefore mentioned, to examine into and fairly, equitably and justly make a division of all property, moneys, credits and property owned by said city, or any part thereof, in common with said town; 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 and of the territorial limits of said town.

In case they are unable to agree.

SECTION 3. And 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 Washington 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 to said city from any portion of territory outside of said city limits which was an organization from which said city was formed, that portion of territory so owing said part of said city, shall pay the amount 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 the manner as is now provided by the laws of this state for the collection of debts against towns cities and villages.

Moneys due city to be paid.

SECTION 4. The connection between the town of Washington and that part of said town included

Connection
between city
and town to
cease.

within the city limits, for all purposes, is dissolved. The duties now and hereafter imposed upon supervisors and other town officers so far as they relate to the city of Altoona, shall be performed by the aldermen, mayor and other officers of said city except as herein otherwise provided.

Use of jail.

SECTION 5. The use of the jail at Eau Claire county, until otherwise provided, shall be granted to said city for the confinement of persons or offenders; and every such offender may be delivered to the sheriff of said county, for whose custody, safe keeping and delivery the said sheriff shall be responsible as in other cases.

Town may do
town business
in city.

SECTION 6. The electors of the town of Washington shall have the privilege to hold all town meetings and all general and special elections at such place in the city of Altoona as they may determine, and the officers of said town of Washington may transact all the town business and keep all town records in said city, and with like effect as if held or done or kept in the town of Washington.

Appropriation
for public
purposes.

SECTION 7. The common council shall have power to appropriate a sum not exceeding five hundred dollars to any public purpose that may be deemed proper, but no such appropriation shall be made unless ordered by a majority vote of all the members elect of said council.

In case election
be not held at
proper time.

SECTION 8. The plats of the village of Altoona and additions thereto are hereby adopted as the plats of the city of Altoona and additions thereto, and the real estate included in said plats may be hereafter described by lots and blocks as they appear on said plats as "The original plat of the village, now city of Altoona," or "The plat of (name of addition) addition to the village, now city of Altoona," or in any other manner, so as to describe the land with reasonable certainty.

Jurisdiction of
justices of the
peace.

SECTION 9. If any election by the people or common council shall, for any cause, not be held at the time or in the manner prescribed, or if the council shall fail to organize as provided, it shall not be considered reason for arresting, suspending or abolishing said corporation, but such election or organization may be had at any subsequent day by order of the mayor, and if any of the duties enjoined by this act, or the ordinances,

by-laws or regulations of said city, to be done by any officer, at any specified time, and the same are not then done and performed, the common council may appoint another time at which said act may be done and performed.

SECTION 10. The jurisdiction of the justices of the peace of the city of Altoona shall be co extensive with the county of Eau Claire. Jurisdiction of justices of the peace.

SECTION 11. If the mayor of the city shall at any time deem it for the interest of the city, he may employ and work the prisoners so committed, outside the jail or yard at labor on the public grounds, streets or alleys of said city, and may cause them to be secured in such a manner as in his judgment will prevent their escape, and the keeper or custodian of the common jail of said county shall upon the order of the mayor of said city, deliver the prisoner or prisoners in such order named and described to the keeping and custody of such person or persons in said order directed, and receive and securely confine such prisoner or prisoners, when returned by such person or persons as aforesaid, and said order shall remain good and be in force until revoked by the mayor or common council of said city. Work of prisoners.

CHAPTER X.

AUDITING ACCOUNTS.

SECTION 1. No account or demand against the city shall be paid until it has been audited and allowed, and an order drawn on the treasury therefor. Every such account shall be made out by items and verified by affidavit indorsed or annexed; that the same is just, true and correct, and and no part thereof paid, or if paid in part except as therein stated, and that said account has not been presented before. When an account shall have been audited the clerk shall indorse on each account the word, "allowed" or "disallowed," as the fact is, adding the amount allowed, if any, and specifying the items or parts of items disallowed if disallowed in part only. The minutes of the proceedings of the council shall show to whom and for what purpose every such account was allowed, and the amount. Every such account allowed in whole Auditing accounts.

or in part shall, with the affidavits thereto, be filed with the clerk and those of each year consecutively numbered, and have indorsed the number of the order issued in payment thereof; and the clerk shall take receipts for such order.

Cannot issue negotiable order or borrow money.

SECTION 2. Neither the common council nor any officer of the city shall issue at any time, any negotiable order or borrow any money except in the manner and for the purpose expressly declared by statute or this act; but the common council may, in temporary necessity, by a unanimous vote of the council, and not otherwise, borrow money in anticipation of the tax to be levied for the current year, not exceeding one per centum of the assessed valuation of the property in said city, according to the last assessment, and may give orders on the treasury, payable at a future date, therefor, with or without interest; but no such order shall be made payable at a later date than the first day of March following the date of issue of such order, and for the payment of any such order, the city tax for the same year, or a sufficient amount thereof, shall stand irrevocably pledged.

Cannot levy for city judgments.

SECTION 3. No real or personal property of the city, or any of its inhabitants, or of any individual or corporation therein, shall be levied on or sold by virtue of any execution issued to satisfy any judgment against said city.

Not liable for damages.

SECTION 4. Neither the said city, nor any officer within said city, shall be liable for any damage that may happen by reason of any defect or insufficiency in any sidewalk, street, highway or bridge in said city, unless the street commissioner or common council shall have first had actual notice of such defect or insufficiency and reasonable time thereafter to repair the same or place the same in good order.

When action in tort can lie.

SECTION 5. No action in tort shall lie or be maintained against the city of Altoona, unless a statement in writing signed by the person injured of the wrong and time, place and circumstances thereof, and amount of damages claimed, shall be presented to the common council within thirty days after the occurring or happening of the tort alleged.

Action in tort for injury to person.

SECTION 6. Action in tort for injury to the person shall not lie or be maintained against said

city, unless through notice and permission by the person claiming injury, the mayor or common council has been enabled by a physician of his or their appointment, to make personal examination of the alleged injury within thirty days, after the time of its infliction, and until the amount of damages is adjusted, such examination may be repeated as often as required by the mayor or common council.

SECTION 7. No action shall hereafter be maintained by any person against the city of Altoona upon any claim or demand other than a city bond or order, unless such person shall first have presented his claim or demand to the common council of said city.

Claims against city must first be presented.

SECTION 8. When the claim 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 circuit court of Eau Claire county, by causing a written notice of such appeal to be served on the clerk of said city, within thirty days after the making of such decision.

Appeal from decision.

SECTION 9. The city clerk, upon such appeal being taken, shall immediately give notice thereof to the mayor and common council, or shall take such measures as by the ordinance or resolutions of said council he may be required to do, and shall make out a brief return of the proceedings in the case before said council, with its decision thereon, and shall file the same together with the bond, and all papers in the case in his possession, with the clerk of the circuit court for the county of Eau Claire, and such appeal shall be entered, tried and determined in the same manner as appeals from justices of the peace, and costs shall thereupon be awarded in like manner; provided, however, that whenever an appeal is taken from the allowance made by said common council upon any claim, 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.

City clerk to give notice.

Determination
of council to be
final.

SECTION 10. The determination of the common council, disallowing in whole or in part any claim of any person shall be final and conclusive, and a perpetual bar to any action in any court, founded on such claim, unless an appeal be taken as hereinbefore provided, or the common council shall consent to the institution and maintenance of the action; provided, however, that when the council shall refuse or neglect to act upon a claim duly presented to it, this chapter shall not be construed so as to prevent the institution and maintenance of action by said claimant against said city.

CHAPTER XI.

FINANCE AND TAXATION.

Control and
management
of finances.

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

Debt must be
authorized be-
fore being con-
tracted.

SECTION 2. No debt shall be contracted against the city, or any order be drawn on the city treasury, unless the same shall be authorized by a majority of the common council, and the vote authorizing the same shall be entered by ayes and nays upon the journal of the council, whenever the same shall be asked for by any one member, and no money shall be appropriated for any purpose whatever except such as is expressly authorized by this act, and for the payment of indebtedness now existing. The common council shall have power to, and shall levy annually, to defray the current expenses of said city, a sum sufficient for that purpose; provided, that the amount to be raised in any one year, for general city purposes, other than state, county and school taxes, and interest on bonded indebtedness of said city, as authorized by law, shall not exceed

three per centum of the taxable property in said city as shown by the last assessment.

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

Forfeitures
and penalties.

SECTION 4. All property, real or personal, within the city, except such as may be exempt by the laws of the state, shall be subject to annual taxation for the support of the city government, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided. The assessor elected under this act shall have and possess the same powers and perform the same duties as are or may hereafter be conferred upon the township assessors, except as far as they may be altered by this act; provided, however, that the common council may prescribe the form of assessment rolls and more fully define the duties of assessors.

Property sub-
ject to taxa-
tion.

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

Duties of a
assessor

SECTION 6. The mayor, clerk and assessor shall constitute the board of review, and shall meet at the chambers of the common council on the last Monday in June in each year, and shall proceed in all respects as town boards are by law required to proceed.

Board of re-
view—how
constituted.

SECTION 7. The county board of supervisors shall have the right and shall regard the city of Altoona as a town in equalizing the assessment rolls of the several cities and towns in Eau Claire county as provided by law, but in such equalization shall consider the assessment roll of said city as an entire roll, and shall not change the relative valuation of the different wards.

City to be re-
garded as a
town in equal-
ization.

SECTION 8. The said board of supervisors may levy a tax or taxes as now is, or may thereafter be provided by law in relation to towns, but shall

Levying taxes
—how done.

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

City clerk to
make out tax
roll.

SECTION 9. Upon receiving the statement of the amount of taxes so levied, the city clerk shall make out upon the assessment roll, in columns left for that purpose, or upon a copy thereof, a complete statement of the several taxes levied for state, county, city or other purposes, and all delinquent taxes, if any, of previous years, and all special taxes levied by the common council since making out the last annual tax list in such separate columns as may be necessary, with the total footing carried out opposite each tract or lot of land, or person named therein, which statement shall be called "the tax list of Altoona," and shall be preserved by said clerk as a record in his office, and shall have the same legal force and effect as the record of the common council.

Prima facie
evidence.

SECTION 10. The tax list made out and preserved as aforesaid shall be prima facie evidence in every court of record in this state, that every act or thing required by law to be done relating to the assessing or levying of taxes, from the election of officers to the completion of tax list, inclusive has been done regularly, correctly and as required by law.

Duplicate copy
to be made out.

SECTION 11. Immediately after making out the tax list aforesaid, the clerk shall make out a duplicate copy thereof, to which shall be appended a warrant signed by the mayor and clerk, and sealed with the corporate seal of said city, directed to the treasurer, requiring and commanding him to collect the taxes and assessments specified in said duplicate copy of the tax list, in the manner provided by law, and the said clerk shall, on or before the first day of December of the same year, or as soon thereafter as practicable, deliver the same to the city treasurer for collection, and make a record of such delivery on the tax list preserved in his office.

City treasurer
to collect taxes.

SECTION 12. The city treasurer, upon receipt of such duplicate copy of tax list, shall proceed and

collect the same in like manner, and shall have like power, and be subject to like requirements, liabilities and restrictions as town treasurers, except as otherwise provided in this act. The city treasurer shall receive two per cent. upon all taxes paid to him before the tenth day of January, and four per cent. fees upon all taxes collected after that time, to be added to the amount of taxes and collected with the same, and also one per cent. of all other moneys received or collected by him, not including that received from his predecessor in office, which shall be in full of all services performed by said treasurer under this act or by the ordinances of said city.

SECTION 13. On or before the tenth day of February of each year, unless the time be extended as provided by law in section 1108, chapter 49, of the revised statutes of 1878, provided said extension shall not exceed forty-five days after said tenth day of February, the city treasurer shall make out and return to the treasurer of Eau Claire county a list of all lands, lots and personal property upon which taxes have not been paid, and shall also settle with and pay all moneys properly payable to said county treasurer, in like manner as now is or may hereafter be required of town treasurers; and all the provisions of chapter 49, of the revised statutes of 1878, and acts amendatory thereof, shall extend to, and may be enforced to collect any delinquent personal property tax.

Return of unpaid taxes.

SECTION 14. The county treasurer shall sell all delinquent lands and lots returned from the city of Altoona, at the same time and in the same manner as other delinquent lands are sold in the county.

Sale of delinquent lands.

SECTION 15. All the directions hereby given, except in section 9, of this chapter, for the assessing of lands and the levying, collecting and return of taxes and assessments and the sale thereof, shall be deemed only directory, and no error or informality in the proceedings of any of the officers entrusted with the same not affecting the substantial justice of the tax itself shall vitiate or in anywise affect the validity of the tax or assessments.

Directions only directory.

SECTION 16. In addition to the amount herein limited for taxes, for general city purposes, spec-

Special taxes may be levied.

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

Duty of treasurer to report when out of funds.

SECTION 17. When the treasurer shall be unable to pay any order drawn on the treasury, it shall be his duty to report the fact to the first regular meeting of the council; thereupon the council shall direct its finance committee to examine the accounts of the treasurer, and if all funds in his hands have been paid out, then the council shall take such action as will enable the city to preserve its credit.

What taxes shall first be paid.

SECTION 18. Out of the taxes collected by the city treasurer, the state tax shall first be paid; then all school taxes; then county taxes; then judgments; then all special taxes in the order in which they were levied. Delinquent returns shall be received by the county treasurer in payment of county taxes in the manner provided by law.

Unfinished business.

SECTION 19. The common council shall meet on Monday evening, one week previous to the holding of the charter election, for the purpose of disposing of the unfinished business and shall not thereafter during its term of office, allow any bills against the city, but may anticipate and provide for the payment of salaries of officers for the balance of its term.

Surplus funds, dispensation of.

SECTION 20. The council shall have power to direct that all surplus funds belonging to the city, not needed for immediate use, may be invested as the council may direct, or borrowed for the temporary use of the other funds of the city, and all interest and profits arising from such investment shall belong to the city, and shall be accounted for in the same manner as other funds are accounted for; provided, however, that the provisions of this section shall in no manner apply to the school fund, which shall be held by the

treasurer as a separate fund, and paid out only to the school district treasurer.

CHAPTER XII.

ACTIONS TO RECOVER PENALTIES, ETC.

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, and may be heard and determined by and before the police justice of said city, or before any justice of the peace therein as hereinbefore provided. 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 ordinances, by-laws or regulations under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it.

Actions to recover penalties.

SECTION 2. In all prosecutions for any violation of the provisions of this act, or any by-laws, ordinances or regulations, the first process shall be a summons, unless oath be made for a warrant as in criminal cases before a justice of the peace, under the general statutes of the state for the time being.

Prosecutions—how conducted.

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

Form of summons.

COUNTY OF EAU CLAIRE, }
 City of Altoona. } ss.

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal of the city of Altoona:

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

Given under my hand this — day of —, A. D. 18—.

C. D., (title of office).

When return-
able.

SECTION 4. Such summons shall be made returnable and served in the same manner as is now or hereafter may be prescribed by the laws of this state, for the commencement of actions before justices of the peace by summons; and all proceedings in the action, except as hereinafter provided, shall be governed by the laws of the state for the time being, relative to actions commenced by summons and triable before justices of the peace.

Form of
complaint.

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

The City of Altoona } In justice court,
 } Before C. D.,
 } justice of the peace.

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 and stating cause of action), which said — is now in force. By reason of such violation, an action hath accrued to the city of Altoona, to recover of the defendant the sum of — dollars debt. Wherefore the plaintiff demands judgment against the defendant for the sum aforesaid, besides the costs of this action.

Form of
complaint.

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 Altoona, Plaintiff, } Before C. D., po-
 } lice justice of the
 } City of Altoona.
 } A. B. Defendant.

Eau Claire county -- ss.

E. F. being duly sworn on oath complains to C. D., police justice in and for the city of Altoona, 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 the title, and stating offense), which said — is now in force, and prays that the said A. B. may be arrested and held to answer to said city of Altoona therefor.

E. F.

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

C. D. — and title.

Said complaint shall be sworn to before the police justice who shall issue the warrant thereon; upon filing such complaint with the police justice before whom the same shall be sworn to, he shall issue a warrant substantially in the following form:

STATE OF WISCONSIN,)
City of Altoona,) ss.

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal or any policeman of the city of Altoona, greeting:

Whereas, ———— has this day, complained to me in writing on oath, — —, did on the — day of —, A. D. 18—, at the city of Altoona in said county, 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, and stating offense), which said — is now in full force; therefore you are commanded to arrest the body of the said — and bring him before me forthwith to answer to the city of Altoona on the complaint aforesaid.

C. D., police justice.

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

Printed copy to be good evidence.

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

No fees required in advance.

SECTION 9. In city prosecutions both plaintiff and defendant shall enjoy the right of trial by jury as in civil actions in justices' courts, and the findings of the court shall be "guilty" or "not guilty." If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture described in this act or any ordinance, by-law or regulation for the violation

Trial by jury, and findings of court.

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 non-payment thereof, the justice shall forthwith issue execution, as in cases of tort; in case the action was commenced by summons, and 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 time in the execution or commitment. Such execution shall be in the following form:

County of Eau Claire, }
 City of Altoona. } ss.

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal or policeman of the city, and to the keeper of the common jail of said county, greeting:

Whereas, the said city of Altoona, on the — day of —, 18—, recovered a judgment before the undersigned, justice of the peace in and for said city, against —, for the sum of — dollars, together with — dollars, and — cents, costs of suit for the violation of section —, chapter —, of this act (or section —, of any 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 said — (excepting such as the law exempts) and make sale according to law to the amount of said sum, together with your fees, twenty-five cents for this writ, and the same return to me within thirty days; and for want of such goods and chattels whereon to levy, to take the body of said — and him convey and deliver to the keeper of the common jail of Eau Claire 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—.

D. C.,

(Title of officer.)

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.

SECTION 10. Any defendant feeling aggrieved by the judgment of the justice of the peace or police justice in an action commenced under the provisions of this act, may appeal from such judgment in the manner provided by the general laws of this state. Such defendant shall within twenty-four hours, enter into a recognizance, with one or more sufficient sureties, to be approved by such justice, conditioned to appear before said court and abide the judgment of the court therein. 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 in 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.

Defendant
may appeal.

SECTION 11. Said appeal shall stand for trial by a jury unless a jury be waived, in the manner provided by law, in said circuit court at the next term thereof, after the day of the judgment of the justice shall be rendered, and no notice of trial shall be required to be given to or by either party.

Appeal to
stand for trial.

SECTION 12. If the judgment of the justice shall be affirmed, or if upon the trial the defendant shall be convicted, the court shall inflict the penalty provided by this act or the ordinance, regulation, by-law or resolution under which he or they are prosecuted, and render 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 actions of tort.

In case judgment be
affirmed.

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.

Shall not be
incompetent.

SECTION 14. When any suit or action shall be commenced against the city, the service thereof

How service
against city
shall be served.

shall be made by leaving a copy of the process of summons with the mayor or clerk of said city, and it shall be the duty of said mayor or clerk of said city so served, forthwith to inform the common council thereof, or to take such other proceedings as by the ordinances or resolutions of said council may be in such case provided.

Penalties paid
into treasury.

SECTION 15. 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.

First election—
when and
where to be
held.

SECTION 16. The first city election of the city of Alfoona, for the election of city and ward officers shall be held in the respective wards of said city on the second Tuesday of April, 1887. Five days' notice of the time and place of holding such elections shall be given by posting notices in writing in three public places in said city, signed by A. L. Anderson, G. L. Colburn and J. K. Brasill, who are hereby appointed a board of canvassers to canvass the returns of the several wards in said city, and are authorized to select a place in each ward for holding such election. At the time of opening the polls in each ward the electors present shall choose viva voce from the qualified electors present, three inspectors of election and two or more clerks of election, who, before entering upon their duties, shall take the oath required of inspectors and clerks of election, such elections shall be conducted as herein provided for city election. After the polls of such election are closed, said inspectors and clerks shall make duplicate returns of such election, one of which they shall forthwith transmit to the said board of canvassers, and one of which is to be retained by said inspectors and filed by them in the office of the city clerk, when such officer is qualified to act, said board of canvassers shall immediately, after the polls of the election are closed, meet at the polling place in the first ward of the city and canvass the returns of the several wards of the city immediately upon the receipt of the returns from all of the wards, and they shall make out duplicate statements to be subscribed by them, showing the whole number of votes cast for each office, and the number of votes cast for each person voted for, and a certificate of the result of the election; they shall file one of such

statements in the office of the town clerk of Washington within three days after such election, and shall retain the remaining statement until the city clerk is elected and qualified, when such statement shall be filed in his office. Before proceeding to canvass such returns, the said board of canvassers shall each take and subscribe an oath to support the constitution of the United States and of the state of Wisconsin, and to faithfully canvass the returns of such election. If any one of said canvassers shall fail to act for any reason, the remaining canvassers may appoint a suitable person to act in his stead. Such canvassers shall, immediately after the completion of such canvass, make out certificates of election of each officer elected, and shall forthwith notify him of such election.

SECTION 17. This act is hereby declared to be a public act, and shall be liberally and favorably construed in all the courts of this state, and shall take effect and be in force from and after its passage and publication.

Approved April 6, 1887.

[No. 617, A.]

[Published April 14, 1887.]

CHAPTER 336.

AN ACT relating to the fire department of the city of Milwaukee, and amendatory of the charter of the city in respect to the same.

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

SECTION 1. In addition to the officers and men now authorized to be employed in the fire department of the city of Milwaukee, including the assistant superintendent of fire-alarm telegraph, the superintendent of machinery and apparatus and the secretary now appointed and employed under ordinances of said city; and which several officers last named are hereby constituted and confirmed as officers of the department; there may

Officers of fire department.