

No. 197, S.]

[Published April 2, 1891.

CHAPTER 98.

AN ACT to amend and revise chapter 140 of the laws of Wisconsin for the year 1885, entitled, "An act to incorporate the city of Cumberland."

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

Amends chapter 140, laws of 1885.

SECTION 1. Chapter 140 of the laws of Wisconsin for the year 1885, entitled, "An act to incorporate the city of Cumberland," approved March 27, 1885, is hereby amended and revised so as to read as follows:

CHAPTER I.

THE CITY OF CUMBERLAND, ITS CORPORATE POWERS.

Corporate name and powers.

SECTION 1. All that district of country in the county of Barron, and state of Wisconsin, hereinafter described is hereby set off and separated from the town of Cumberland, and shall be a city by the name of Cumberland, and the people now inhabiting and those who shall inhabit said district shall be a municipal corporation by the name of the city of Cumberland, and shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall have and possess the powers hereinafter specially 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 the courts of law and equity, and shall have a common seal, and may alter the same at pleasure.

CHAPTER II.

CITY AND WARD BOUNDARIES.

City boundaries.

SECTION 1. The north half of section number eighteen, all of sections number six and seven, all

being in township number thirty-five north, of range number thirteen west, in the county of Barron and state of Wisconsin, shall be included in and constitute the limits of the city of Cumberland.

SECTION 2. The city shall be divided into four wards, called First, Second, Third and Fourth wards, limited and bounded as follows: All that portion of said city lying south of a line drawn east and west along the center of Elm street and extended west from the end of Elm street to the west boundary of said city, shall constitute the First ward; all that portion of said city lying north of said line of Elm street and east of the main track of the Chicago, St Paul, Minneapolis and Omaha railway running through said city, and south of the center line of Water street extended east to the eastern boundary of said city, and all that portion of said city lying between the center line of Water street on the north, Beaver Dam lake on the west, Grove street on the south and said main track of the Chicago, Saint Paul, Minneapolis and Omaha railway on the east, shall constitute the Second ward; all that portion of said city lying north of the center line of Water street extended east and west to the eastern and western boundaries of said city shall constitute the Third ward; and all that portion of said city lying between said line of Elm street on the south, said main track of the Chicago, St. Paul, Minneapolis & Omaha railway on the east, the center line of Grove street on the north and Beaver Dam lake on the west, and all that portion of said city lying west of Beaver Dam lake and between the said line of Elm street extended west to the western boundary of said city on the south, and the center line of Water street extended west to the western boundary of said city on the north, shall constitute the Fourth ward of said city.

CHAPTER III.

ELECTIONS.

SECTION 1. The annual election of ward and city officers shall be held on the first Tuesday in

Annual municipal election; city to constitute one voting precinct.

April in each and every year at such place in said city as the common council shall designate and the polls shall be kept open from nine o'clock in the forenoon until sundown. Ten days' previous notice shall be given by the common council of the time and place of holding such election and of the city and ward officers to be elected, but a failure to give the notice of such election as above specified shall not invalidate such election. At all general and city elections the city shall constitute one voting precinct.

General elections,

SECTION 2. All general elections shall be conducted as prescribed by the laws of the state of Wisconsin governing such elections.

City elections; general laws to govern except as herein provided.

SECTION 3. All city elections shall be conducted as prescribed by the general laws of the state of Wisconsin except that at such city elections there shall be four ballot boxes, one for each ward, and on each ballot box shall be plainly printed the number of the ward for which such ballot box is to be used. Any person offering his vote at a city election shall announce the number of the ward in which he shall reside and thereupon his ballot shall be deposited in the ballot box of said ward. When a city election shall be closed and the number of votes for each candidate or person voted for shall be counted and ascertained, the said inspectors shall make a return thereof stating therein the number of votes for each person, for each and every office, and shall deliver or cause to be delivered, such returns to the city clerk within three days after such election. The common council shall on the fourth day after such election meet and canvass said return and declare the result as it appears from the said return, and the city clerk shall forthwith give notice to each person elected of his respective election.

Officers, enumeration of; qualifications.

SECTION 4. The elective officers of said city shall be a mayor, a treasurer and an assessor, elected by and for the city at large, and two aldermen, one justice of the peace, and one constable, to be elected by and for each ward; also one supervisor to represent his ward in the board of supervisors of Barron county, to be elected by each ward. The mayor, treasurer and assessor shall be qualified voters in the said city, and the ward officers aforesaid shall be qualified voters in the ward for which they were elected. The

city clerk, attorney, marshal and all other officers necessary for the proper management of the affairs of said city shall be appointed by the common council. All elective officers, except justice of the peace, shall, unless otherwise provided, hold their respective offices for one year, and until their successors are elected and qualified; provided, however, the common council shall have power, for due cause, to expel any of their own members, and to remove from office any officer or agent under the city government, due notice being first given to the officer complained of. The justices of the peace shall hold their offices for two years and until their successors are elected and qualified. The mayor shall have power to suspend any police officer or watchman appointed by the council when complained of for cause 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.

SECTION 5. Whenever a vacancy shall occur in the office of mayor or treasurer, such vacancy shall be filled by a new election, which shall be ordered by the common council within ten days after such vacancy shall occur; and 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 and with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill, except in the cases of justices of the peace and aldermen, whose appointment shall continue only until the next city election, when the vacancy shall be filled for the remainder of the term by an election. If from sickness or other cause the supervisor from any ward shall be unable to attend any meeting of the county board, the common council may appoint some person from such ward to attend such meeting and act as a member of such county board, but such person shall not be permitted to act as a member of the county board until the city clerk shall certify to the county clerk the name of the person so appointed to represent such ward.

SECTION 6. All persons who are qualified electors of the state of Wisconsin and who shall have

Vacancies,
how filled.

Voters, quali-
fications of.

been actual residents and inhabitants of the ward from which they offer their vote for ten days next preceeding said election shall be entitled to vote for any city or ward officer to be elected, or on any other question that may be submitted to the people for their vote.

Special elec-
tions, how
held.

SECTION 7. Special elections to fill vancancies or for any other purpose shall be held and conducted and the returns thereof made in the same manner as is hereinbefore prescribed for city elections.

Office deemed
vacant, when.

SECTION 8. Any officer removing from the city or any ward officer removing from the ward for which he was 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

Officers to be
chosen at first
election

SECTION 9. There shall be elected at the city election in April in the year 1891, one alderman for each ward who shall hold his office for two years, and one alderman for the Fourth ward who shall hold his office for one year and thereafter at each annual election one alderman for each ward who shall hold his office for two years. There shall each year also be elected a supervisor for each ward to represent the city in the county board of supervisors who shall hold his office for one year. The aldermen elected from the First, Second and Third wards at the annual election in the year 1890 for the term of two years shall hold their said offices for the remainder of their unexpired terms.

ew election,
then.

SECTION 10. Should there be a failure by the people to elect any officer herein required to be elected on the day designated, the common council may order a new election to be held, ten days' notice of the time and place, and naming the offices to be filled, first being given.

CHAPTER IV.

OFFICIAL OATH AND BOND OF CITY OFFICERS.

Oath of office,
officers to take
before entering
upon duties.

SECTION 1. Every person elected or appointed to any office under the provisions of this act, ex-

cept justices of the peace, shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same, duly certified by the officer taking the same, with the clerk of the city, and the treasurer, clerk, marshal, constables and such other officers as the common council may direct shall severally, before they enter upon the duties of their respective offices, execute to the city of Cumberland a bond, with at least two sureties, who shall swear that they are worth in the aggregate the penalty specified in said bond, over and above all debts, exemptions or liabilities; and said bonds shall contain such penal sum and such conditions as the common council may deem proper, and they may from time to time require new additional bonds, and remove from office any officer refusing or neglecting to give the same.

SECTION 2. The mayor shall be present and preside over the meetings of the common council and take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties. He shall from time to time give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city, and in case of a riot or other disturbance, or apparant necessity, he may appoint as many special or temporary constables as he may deem necessary. The mayor shall have a vote only in case of a tie. The mayor shall have power to veto any ordinance or resolution passed by the common council by notifying the common council of his objection thereto at any time within seven days after the passage of such ordinance or resolution. In case of no session of the council on any day after the passage of the same, and before the expiration of the said seven days, such notification shall be made by filing with the clerk a copy of his objections, and in case the council shall not within one week after the receipt of such objections or such filing with the clerk so enact such ordinance or pass such resolution by the vote of two-thirds of the aldermen-elect, the same shall be null and void. No ordinance or resolution shall take effect until one

Mayor, his
powers and
duties.

week after the passage of the same, unless sooner approved in writing by the mayor or acting mayor for the time being.

President of
the council;
his powers
and duties.

SECTION 3. At the first meeting of the common council in each year, they shall proceed to elect by ballot one of their members president, and in the absence of the mayor the said president shall preside over the meeting 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, except signing of city bonds. In case the mayor and president shall be absent at any meeting of the common council, they shall proceed to elect a temporary presiding officer, who for the time being, shall discharge all the duties of the mayor. The temporary presiding officer, or the president, while presiding over the board, or performing the duties of mayor, shall be styled "acting mayor," and acts performed by them, or any of them, shall have the same force and validity as if performed by the mayor, excepting the signing of the city bonds; and the said common council shall also at their first meeting in each year, elect a clerk and marshal for the city who shall hold their respective offices for one year and until others are elected and qualified.

City clerk;
his powers
and duties.

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

and all chattel mortgages and the renewals so filed shall be as valid and legal as if the same had been filed in the town clerk's office in any town; the clerk shall have power and authority to administer oaths and affirmations.

SECTION 5. The justices of the peace under this act shall have the same jurisdiction and perform all the duties of the justices of the peace and shall qualify in the same manner as provided by the general laws of the state, except that the official bonds or agreements shall be approved by a majority of the common council, and in addition thereto they shall have jurisdiction in all cases arising under this act, and the ordinances, resolutions and by-laws passed by said city council, unless therein otherwise provided, and shall hold their offices in their respective wards for which they were elected. All constables elected by virtue of this act shall have and exercise the same powers and duties and be subject to the same liabilities as constables of towns.

Justices of
the peace;
their powers
and duties.

SECTION 6. The treasurer of said city 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. All moneys raised, received, recovered or collected, by means of any tax, license, penalty, forfeiture or otherwise under the authority of this act, or which may belong to the said city, shall be paid into the city treasury, and shall not be drawn therefrom except upon an order issued by order of the common council and signed by the mayor and countersigned or attested by the clerk. He shall keep an accurate account of all moneys or other things, coming into his hands as treasurer in a book to be provided for that purpose, which shall remain the property of the city, wherein he shall note the time when, and the persons from whom the amounts of the several sums were received, which book shall at reasonable times, be open to the inspection of any person. He shall every three months, and as often as the common council requires, render to such council a minute account of the receipts and expenditures of his office, and at the expiration of his office he shall hand over to his successor all moneys, books, papers and property in his possession belonging to said city. The said treasurer shall also be a collector of taxes,

Treasurer;
his powers
and duties.

and for his services receive the same compensation, except as herein otherwise provided, and he shall have the same power and be subject to the same liabilities and be governed by the same laws as treasurers of towns; provided, that he shall receive no other fees except the compensation hereinafter provided.

**City marshal;
his powers
and duties.**

SECTION 7. The city marshal shall attend all the meetings of the common council when requested by the mayor, and shall perform such duties as shall be prescribed by the common council for the preservation of the public peace, and collection of license moneys and fines. He shall possess all the powers of constables of 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 law of this state, may pursue and serve the same in any part of the state. It shall be his duty to suppress all riots, disturbances and breaches of the peace and to remove all obstructions in the streets and alleys of said city, and to abate all nuisances in said city, to apprehend any person in the act of committing any offense against any ordinance of said city or laws of this state, and within reasonable time bring such persons before competent authority for examination, and for such services he shall receive such fees as are allowed to constables for like services. 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 bonds for the faithful discharge of their duties.

**Council may
require additional
duties
of officers.**

SECTION 8. The common council shall have the power, from time to time, to require other and further duties to be performed by any officer, whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties and fix the compensation of all officers elected or appointed by them; such compensation shall be fixed by resolution at the time the office is created, or at the commencement of the year, and shall not be increased or diminished during the term such officers shall re-

main in office, or for which he is elected or appointed.

SECTION 9. The common council, at their first meeting in each year, or as soon thereafter as may be, shall designate one or more newspapers printed in said city, in which shall be published all ordinances and other proceedings and matters required by this act, or by the by-laws or ordinances of the common council to be published in a public newspaper, which printing or publishing shall be let by contract to the lowest bidder or bidders; provided, they are reasonable and not higher than the usual price for such printing.

Official newspapers.

SECTION 10. The city printer or printers, immediately after the publication of any notice or ordinance or resolution or by-law, which by this act is required to be published, shall file with the clerk of the city a copy of such a publication with his or their affidavit, or the affidavit of his or their foreman, of the length of time the same has been published, and such affidavit shall be *prima facie* evidence of the publication of such notice, ordinance, by law or resolution, and the clerk shall file the same in his office.

Proof of official publication.

SECTION 11. 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 belonging to said city or pertaining to the office he may have held, he shall forfeit and pay to the use of the city one hundred dollars besides all damages caused by his neglect or refusal so to deliver, and such successor may secure possession of such books, papers and effects in the manner provided by the laws of this state.

Penalty for refusal to deliver books, etc., to successor.

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

Aldermen not to be interested in city contracts.

SECTION 13. The mayor or acting mayor, sheriff of Barron county, and each and every alderman, justice of the peace, marshal, under sheriff and deputy sheriff of Barron county, constable,

Officers of the peace.

policeman and watchman shall be officers of the peace and may command the peace, and suppress, in a summary manner, all rioting and disorderly behavior, within the limits of the city, and for such purposes may command the assistance of all bystanders, and if need be of all citizens, and if any person, bystander or private citizen shall refuse to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of fifty dollars, and in case where the civil power may be required to suppress riots or disorderly behavior the superior or senior officer present in the order mentioned in this section shall direct the proceedings.

Municipal
judge, juris-
diction of.

SECTION 14. The third municipal judge of Barron county shall have sole and exclusive jurisdiction to hear all complaints and conduct all examinations and trials in criminal cases within the city cognizable before a justice of the peace, in which the city is a party, but warrants returnable before said third municipal judge for Barron county may be issued in criminal cases by any justice in the city; but no fee shall be received therefor by said justice. The said third municipal judge shall have exclusive jurisdiction in all cases cognizable before a justice of the peace in which the city is a party, and shall have cognizance and exclusive jurisdiction of all suits, prosecutions or proceedings for the recovery of any fine, forfeiture or penalty under any by-law, ordinance or regulation of the said city of Cumberland or its charter, or for a breach or violation of any such ordinance, by-law and regulation, and in all cases of offenses committed against the same. All prosecutions for a breach or violation of any by-law, ordinance or regulation of the city of Cumberland, shall be commenced in the name of the city of Cumberland, and the same proceedings shall be had in all criminal and civil suits before said judge when not otherwise herein directed, as are established and required to be had in civil and criminal actions by the laws of this state before a justice of the peace; provided, that in cases of prosecution for a breach or violation of an ordinance, by-law or regulation of said city or its charter, or for any assault, battery or breach of the peace, or any affray not indictable, committed within the city limits, defend-

ant shall have the same right of appeal under the same provisions and requirements as now are or may be provided for taking appeals from justices of the peace. In all cases of conviction for assaults, batteries and affrays within the said city, or in all cases of conviction under any ordinance of said city for any breach of the peace, disorderly conduct, keeping houses of ill-fame, or of frequenting the same, and of keeping or maintaining disorderly and ill-governed houses, said judge shall have power, in addition to the fine or penalty imposed, to enter judgment for costs of prosecution against the defendant, and to compel such offenders to give security for their good behavior and to keep the peace for a period not exceeding six months and in a sum not exceeding five hundred dollars. The said judge shall have the same power and authority in cases of contempt as a court of record; provided, that nothing herein contained shall be deemed to divest the circuit judges of their authority as conservators of the peace, nor to affect in any manner the jurisdiction or power of the circuit courts or supreme court of this state. All fines and penalties imposed by said judge for violation of any ordinance, by law or regulation of said city, shall belong to and be a part of the finances of said city.

SECTION 15. The said judge shall, as often as the common council may require, report to the common council all the proceedings instituted before him in which the city is interested, and shall at the same time account for and pay over to the city treasurer all fines and penalties collected by him and belonging to said city.

Municipal
judge to report
proceedings to
council.

SECTION 16. The city assessor shall assess the real and personal property of said city at the time and in the manner provided for assessing towns, and his compensation therefor shall be the same as provided by law for the compensation of town assessors.

Assessor, his
powers and
duties.

SECTION 17. The city attorney shall be a person duly admitted to practice in the courts of record conformably to the laws of this state. He shall perform all professional services incident to the office, as prescribed by this charter and the ordinances, resolutions and by-laws of said city, and when notified shall appeal and conduct

City attorney,
qualifications
of: his powers
and duties.

all prosecutions when the city is a party and in all civil actions when the city is plaintiff, and all defences when the city is a party, and when required shall furnish written opinions to the council or its committees.

CHAPTER V.

THE COMMON COUNCIL—ITS GENERAL POWERS AND DUTIES.

Common council, how constituted.

SECTION 1. The mayor and aldermen shall constitute the common council and shall not receive any compensation for their services, and the style of all ordinances shall be: "The mayor and common council of the city of Cumberland do ordain," etc. The common council shall meet at such time and place as they, by resolution, shall direct. A majority of the aldermen shall constitute a quorum.

First annual and stated meetings.

SECTION 2. The common council shall hold their first annual meeting in each year on the second Tuesday of April, and thereafter stated meetings at such times as they shall appoint, and the mayor may call special meetings by notice to each of the members, to be served personally or left at their several places of abode. The common council shall determine the rules and qualifications of its own members, and have the power to compel the attendance of absent members.

Common council; enumeration of general powers.

SECTION 3. The common council shall have the management and control of the finances, except school moneys, and of all the other public property in the city, and shall likewise, in addition to the powers herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules, resolutions and by-laws, for the government and good order of the city, for the suppression of vice, for the prevention of crime, and for the benefit of trade, commerce and health thereof, and so enforce as they shall deem expedient, declaring and imposing penalties, and so enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules and 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 or laws of the United States or of this state, and for these purposes shall have authority by ordinance, resolution or by-law:

1. To license, regulate, suppress and prohibit the exhibition of common showman or shows of any kind, or the exhibitions of caravans, circuses, or theatrical performances, billiard tables, bowling saloons, nine or ten pin alleys, and to provide for the abatement and removal of all nuisances, under the ordinances of said city, the laws of the state or at common law. And may grant licenses for, and regulate groceries, taverns, victualing houses, and all persons vending or dealing in spirituous, vinous, malt, or fermented liquors, and may prohibit and suppress the same; provided, that the license for so dealing in or vending spirituous, vinous, malt or fermented liquors, shall not be less nor more than the amount fixed by the laws of this state or acts hereafter passed. Grant licenses.

2. To restrain, prohibit and suppress all description of gambling and fraudulent devices and practices, and all playing of cards, dice or other games of chance with or without betting, and to restrain, prohibit and suppress any person or persons from vending, giving away or dealing in spirituous, vinous, malt or fermented liquors unless duly licensed by the common council. Suppress gambling.

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

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 it may be necessary for the health, comfort and convenience of the inhabitants of said city. Compel cleansing of groceries, etc.

5. To direct the location and management of slaughter houses and markets, and to establish rates for and license venders of gunpowder, and regulate the storage, keeping and conveying of gunpowder and other combustible material. Location of slaughter houses.

6. To prevent the encumbering of the streets,

Prevent encumbering of streets.

sidewalks, lanes or alleys, with railroad cars, locomotives, engines, carriages, carts, wagons, sleighs, boxes, lumber, pine or hard wood, or any other materials or substance whatever.

Prevent horse racing.

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

Restrain running at large of cattle.

8. To restrain the running at large of cattle, mules, horses, swine, sheep, poultry and geese, and all other animals and birds, and to authorize the restraining, impounding and sale of the same for the penalty incurred and the costs of the proceeding.

Prevent running at large of dogs.

9. To prevent the running at large and direct the muzzling of dogs, and to authorize the destruction of the same in a summary manner when at large or unmuzzled, contrary to the ordinance.

Putrid carcasses, etc.

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

Establish ponds, pumps, etc.

11. To make and establish public pounds, pumps, wells, cisterns and reservoirs and to provide for the erection of water works for the supplying of water to the inhabitants; to erect lamps and to regulate, license and suppress omnibus drivers, hackmen, coachmen, cartmen, draymen, and the charges of hackmen, coachmen, omnibus drivers, cabmen, cartmen, draymen and all others who may pursue like occupations in this city, and to provide for lighting the streets, public grounds and public buildings with gas or otherwise.

Establish boards of health.

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

Regulate weight of 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 riding or driving any ox, mule, horse, cattle or other animal on the sidewalks in said city, or in any way doing damage to such sidewalks. Prevent injury to sidewalks.

15. To prevent the shooting of fire-arms or fire-crackers, and to prevent the exhibition of any fire-works in any situation which may be considered by the council dangerous to the city or any property therein, or annoying to any inhabitant thereof. Prevent shooting of firearms.

16. To restrain drunkenness or obscenity in the streets or public places in said city and to provide for arresting, removing and punishing any person or persons who may be guilty of the same. Restrain drunkenness.

17. To restrain and regulate runners and solicitors for stages, public houses or other establishments, and to establish and regulate the police of the city. Regulate runners and solicitors.

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

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

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

21. To compel the owners and occupants of buildings and grounds to remove snow, dirt or rubbish from the sidewalks, streets or alleys opposite thereto, and to compel such owners or occupants to remove from the lot owned or occupied by him, all such substances as the board of health shall direct; and in his default to authorize the removal or destruction thereof by some officer of the city, at the expense of such owners or occupants. Compel removal of ice, etc., from walks.

22. To regulate, control and prevent the landing of persons from railroad cars or stages wherein are contagious or infectious diseases or disorders, and to make such provisions for the Regulate infectious diseases.

- disposition of such persons as to preserve the health of the city.
- License auc-** 28. To regulate the time, place and manner of
tions. holding public auctions or vendues and to license the same.
- Appoint watch-** 24. To appoint watchmen and prescribe their
men. duties.
- Provide stand-** 25. To provide by ordinance for a standard of
ard of weights, weights and measures, and for the punishment of
etc. the use of false weights and measures.
- Protect trees.** 26. To protect trees and monuments in said city.
- Sewers.** 27. To prescribe and regulate the construction of sewers within said city.
- Lay out** 28. To lay out, make, open, keep in repair, al-
streets. ter or discontinue any highways, streets, lanes and alleys, and to keep them free from incumbrances, and to protect them from injury.
- Alter name of** 29. To alter or change the name of any street
street. in said city.
- Ordain and re-** 30. To make, ordain, amend and repeal all
peal ordinan- such ordinances, by laws and police regulations,
ces. not contrary to the constitution of this state, for the good order and government of the city, and which may be necessary or expedient to carry into effect the powers vested in the mayor and common council or any officer of said city by this act, or which may be vested in any officer of said city by any ordinance thereof.
- Regulate brew-** 31. To direct the location and regulate and
eries. license breweries, tanneries and packing houses.
- License ped-** 32. To license, regulate, restrain or suppress
dlers. hawkers, peddlers, auctioneers, so called Cheap Johns, transient dealers and persons who travel from place to place to sell goods, wares or merchandise, and sales by hawkers, peddlers, auctioneers, so called Cheap Johns and transient dealers and persons who travel from place to place to sell goods, or merchandise within the limits of said city, and when licensed, to fix the amount to be paid for such license. And no hawker, peddler, auctioneer, so-called Cheap John, transient dealer or person who travels from place to place to sell goods, wares or merchandise, shall sell or offer for sale within the limits of said city, any goods, wares or merchandise, except farm, dairy, nursery and green-house products, without having first obtained a license therefor according

to this act, the laws of the state and the ordinances of said city; and any person who shall in any manner violate any of the provisions of this subdivision, or of the ordinances or laws herein referred to, shall, on conviction thereof, be punished as provided in the laws of this state, and the ordinances of said city on that subject. And after the common council shall have passed an ordinance requiring a license of the persons herein described, no state license alone shall be sufficient to authorize or empower the licensee therein named, or the holder thereof, to make any of the sales herein inhibited; provided, however, that traveling peddlers who deal solely with merchants and tradesmen by wholesale shall be exempt from the provisions of this subdivision and shall not be required to take out any license thereunder, or by any ordinance passed pursuant thereto.

SECTION 4. All laws, ordinances, regulations and by-laws shall be passed by an affirmative vote of a majority of the common council, and shall be signed by the mayor, and shall, within fifteen days after their passage, respectively, be published in the official paper or papers of said city once, before the same shall be in force, and within fifteen days thereafter they shall be recorded by the city clerk in books to be provided for that purpose; but before any of the said laws, ordinances, by-laws or regulations shall be recorded, the publication thereof, respectively, shall be proved by the affidavit of the foreman or publisher of such newspaper, and 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; and such record of such law, ordinance, regulation or by-law, and the proof of such record certified by the clerk under the seal of the city, or any printed book containing the same, purporting to have been published under the sanction of the mayor and council, shall be *prima facie* evidence of the due passage and publication of such law, ordinance, regulation or by-law. No appropriation shall be made without a vote of a majority of the members of the common council in its favor.

Ordinances,
how passed.

SECTION 5. The power conferred upon the said council to provide for the abatement or removal

Power to abate
nuisances not
a bar to prose-
cution.

of nuisances shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Depots, houses or buildings of any kind wherein more than twenty five pounds of gunpowder are deposited, stored or kept at any one time, gambling houses, houses of ill-fame, disorderly taverns and houses or places where spirituous, vinous, malt or fermented liquors are sold without license as required therefor, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

Accounts of officers to be audited before expiration of term.

SECTION 6. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, marshal and all other officers or agents of the city, at such times as they may deem proper, and also at the end of each year and before the time for which the officers of the 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, funds and moneys, accounts and vouchers for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of said council in the discharge of his said duties in pursuance of this section, or shall neglect or refuse to render his accounts or present his books, funds, moneys and vouchers to said council, it shall be the duty of the common council to declare the office of such person vacant; and the common council shall order suits and proceedings at law against any officer or agent of said city, who may be found delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all adjustments and settlements.

Corporate authority, how vested.

SECTION 7. The corporate authority of said city shall be vested in one principal officer, styled the mayor; in one board of aldermen, consisting of two members from each ward, who, with the mayor, shall be denominated the common council, together with such other officers as may be created under this act.

CHAPTER VI.

CITY FUNDS AND ORDERS.

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

Management of finances.

SECTION 2. The common council of said city shall annually levy upon the taxable property of said city, to defray the current expenses of said city, a tax sufficient for that purpose.

Annual tax levy.

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

Bonds and indebtedness, how authorized.

SECTION 4. Taxes may be levied by the common council at any regular meeting for the purpose of paying outstanding indebtedness of the village of Cumberland and also for the payment of any bonds or any other evidence of debt hereafter issued or created in accordance with

Same, tax levy for, how.

the provisions of this act or by authority of law. Said taxes when so levied shall be collected at the same time other city taxes are collected.

Accounts to be verified.

SECTION 5. No account shall be allowed by the common council unless the same is verified by the owner thereof or some person in his behalf.

Appeal upon disallowance of claim.

SECTION 6. 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 for the county of Barron 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 and executing a bond to said city with sufficient surety to be approved by said clerk, the county judge or a court commissioner, conditioned for the faithful prosecution of such appeal and the payment of all costs that shall be adjudged against the appellant by the court.

Duty of clerk upon appeal.

SECTION 7. 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 ordinance or resolution of said common council he may be required to do, and shall make out a brief return of the proceedings in the case before said council with their decision thereon and shall file the same together with the bond and all papers in the case in his possession with the clerk of the circuit court for the county of Barron; 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 common council, exclusive of interest, upon such allowance, the appellant shall pay the costs of appeal 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 appellant for the amount of such excess.

Appellant to pay costs, when.

Claim first to be presented to council before action can be maintained.

SECTION 8. No action shall hereafter be maintained by any person against the city of Cumberland upon any claim or demand other than a city

bond or order, unless such person shall first have presented his claim to the common council of said city.

SECTION 9. 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 shall be taken from the decision and determination of such council as hereinbefore provided, or unless such council shall consent and agree to the institution and maintenance of an action by such claimant against the city; provided, however, that when the common council shall refuse or neglect to act upon any claim duly presented to them, this chapter shall not be so construed as to prevent the institution and maintenance of an action by said claimant against said city.

Determination of council a bar to action, when.

CHAPTER VII.

POWERS OF THE COMMON COUNCIL AS TO STREETS, ETC.

SECTION 1. The common council of the city of Cumberland shall have power to lay out and open, change, widen or extend, any street, lane, alley, public ground, square or other place, or to construct or open, alter, enlarge or extend any drain, canal or sewer, or alter, widen or straighten any watercourse within said city in the manner provided by the general laws of the state of Wisconsin in sections 895 to 904 of the revised statutes, inclusive.

Council to lay out or change streets, etc.

SECTION 2. The common council shall have power to hire a competent engineer or surveyor whenever it shall be deemed necessary. All surveys, profiles, plans or estimates made by him for the city shall be the property of said city and shall be carefully preserved in the office of the city clerk, open to the inspection of parties interested at all reasonable hours.

City engineer.

CHAPTER VIII.

ASSESSING, LEVYING AND COLLECTING OF TAXES.

Assessing, levying and collection of taxes.

SECTION 1. All property, real or personal within the city, except as may be exempt by the laws of the state, shall be subject to taxation for the support of the city government, its schools and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided; and the assessor elected under this act shall have and possess the same powers that are, or may be conferred upon township assessors, except so far as they may be altered by this act; provided, however, that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessor and make such rules and regulations in relation to revising, altering or adding to such rolls as they may from time to time deem advisable.

Assessor to give notice of completion of assessment roll.

SECTION 2. When the assessment roll shall be completed, the assessor shall give one week's notice thereof in the official paper or papers, and shall fix a time and convenient place where he will hear any objections of parties deeming themselves aggrieved by such assessment, and after hearing the same the assessors shall make such alteration or reduction as justice or equity shall require; provided, the time of hearing such objections shall not be more than one week from the expiration of such notice.

Return of assessment roll.

SECTION 3. Within one week after the time limited for the hearing of such objections the assessor shall return the assessment roll to the board of equalization of the city. The board of equalization may supply omissions in said roll, and for the purpose of equalizing the same may alter and add to, take from and otherwise revise and correct the same.

Omitted lands may be assessed for tax of previous years.

SECTION 4. If it shall appear to the assessor that any lot or parcel of land was omitted in the assessment roll of either or both of the preceding two years, and that the same was then liable to taxation, he shall, in addition to the assessment of that year, assess upon the lot or tract so omitted for such year or years that it shall have been so omitted, the just value thereof, noting

the year when such omission occurred, and such assessment shall have the same force and effect as it would have had if made the year when the same was omitted, and the common council shall direct, in addition to the tax for the current year, such tax to be levied upon such lot or tract as the same would have been chargeable with, had not the same been so omitted, and such tax shall be collected as other taxes or assessments for the current year. All lands shall be subject to taxes that may have been omitted in whosoever hands they may have come. Should the tax or assessment upon any parcel of land be set aside or declared void, by reason of any defect or informality in the assessing, levying, selling or conveying the same, but not affecting the equity and justice of the tax itself, the common council shall cause the tax or assessment so set aside or declared void to be relieved in such manner as they shall, by ordinance direct; provided, that if the defect was in the assessment, the same shall be again assessed at such time as the common council shall direct, and the said tax or assessment so assessed shall be levied and continue a lien upon such lot or tract and shall be collected as other taxes and assessments are collected under this act.

SECTION 5. The mayor, city clerk, city treasurer and the assessor shall constitute the city board of equalization, and shall meet on the first Monday of July each and every year at 9 o'clock in the forenoon, and shall proceed in all respects as town boards are by law required to proceed so far as the same is applicable, reviewing, correcting and equalizing the assessment roll of the city. The mayor shall be president of the board of equalization and the city clerk the clerk thereof.

Board of equalization, how constituted; powers and duties.

SECTION 6. When the assessment roll shall have been revised and corrected the same shall be filed with the clerk. Thereupon the common council shall, by resolution, levy such sum or sums of money as may be sufficient for the several purposes for which taxes are herein authorized to be levied, but not exceeding the authorized percentage, particularly specifying the purpose for which the same are levied.

Levy of taxes upon filing of assessment roll.

SECTION 7. All changes of assessment roll by the board of equalization shall be duly recorded by the city clerk.

Changes in assessment roll.

Taxes a lien until paid.

SECTION 8. All taxes and assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed from the delivery of the warrant for the collection thereof until such taxes shall be paid.

Tax roll, clerk to make out, how.

SECTION 9. It shall be the duty of the city clerk immediately upon the reception of the corrected assessment roll and a certificate of the amount of state, county and school tax apportioned to said city, to calculate and carry out the total amount of such taxes, adding thereto five *per cent.* for the expense of collection in an additional column prepared for that purpose in the assessment roll, setting down opposite the several sums, set down as the valuation of real and personal property, the respective sums assessed as taxes thereon in dollars and cents, rejecting the fraction of a cent when less than one-half, otherwise reckoning said fraction as a cent.

Delivery of tax roll to treasurer, when.

SECTION 10. The city clerk shall immediately make out a duplicate copy of such assessment roll when thus completed and deliver the same to the treasurer on or before the second Monday in December in each year.

Clerk to give warrant with tax roll.

SECTION 11. To each assessment roll so delivered, a warrant under the hand of the city clerk and the corporate seal of said city shall be annexed substantially in the following form:

Form of warrant.

The State of Wisconsin --- To the city treasurer of the city of Cumberland, in the county of Barron:

You are hereby commanded to collect from each one of the persons and corporations named in the annexed assessment roll and of the owners of the real estate described therein, the taxes set down in such roll opposite to their respective names, and to the several parcels of land therein described, and in case any person or corporation upon whom any such tax is imposed, shall refuse or neglect to pay the same, you are to levy and collect the same by distress and sale of the goods and chattels of the person or corporation so taxed, and out of the money so to be collected, after deducting your fees, you are first to pay to the treasurer of said county on or before the last Monday in January next the sum of for state taxes and the further sum of for county

taxes, and the balance of said money you are required to retain and pay out according to law, and in case said taxes and assessments shall not be paid by the fourth Monday of February next, you are required to return the same to the county treasurer of the said county of Barron.

Given under my hand and the corporate seal of the city this day of, 18..

....., City Clerk.

SECTION 12. The said assessment roll and warrant thereto attached shall be *prima facie* evidence in all courts that the lands and persons therein named were subject to taxation, and that the assessment was just and equal.

Tax roll to be prima facie evidence.

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

General laws to be in force, except as otherwise provided in act.

SECTION 14. Upon the receipt of any tax roll and warrant by the treasurer he shall give public notice in a newspaper published in said city, that such tax list, describing for what purpose such taxes are levied, has been committed to him for collection, and that he will receive payment for taxes at his office for the term of thirty days next ensuing the date of said notice. If the taxes are not paid within said time he shall then proceed to collect the same by distress and sale of the goods and chattels of the persons charged, giving at least six days' notice of the time and place of such sale, by posting up not less than three written notices in as many public places in said city.

Treasurer to give notice of the collection of taxes.

SECTION 15. The treasurer shall be entitled to receive and collect as fees for the collection of taxes, two *per cent* on all taxes collected by or paid to him prior to the 10th day of January in each year, and five *per cent* upon all taxes or assessments paid to or collected by him after said 10th day of January, and in case of a distress or sale made by him, of goods and chattels for the payment of any tax, he shall be entitled to receive such fees as are allowed constables on sales of goods upon execution. The city treasurer shall

Treasurer's fees; record to be kept.

collect the fees hereinbefore prescribed, and shall keep in a book to be provided for that purpose, a true account and statement of all fees by him received as city treasurer, from any source whatever, and such book shall be open at all reasonable times to the inspection of any person, and the city treasurer shall, when required, make a report to the common council, duly certified on oath, of all fees or other moneys received by him as treasurer, and he shall receive no other or further compensation for his services as treasurer, than as hereinbefore provided, except that the common council shall provide him all necessary books, blanks and stationery requisite to the discharge of his duties.

Treasurer to settle with county treasurer, when.

SECTION 16. The treasurer shall, on or before the third Monday in January in each year, pay to the county treasurer, the state tax assessed upon the lots and tracts of land and personal property of said city.

Directions herein only directory.

SECTION 17. All the directions hereby given for the assessing of lands and the collection of taxes and assessments shall be deemed only directory, and no error or informality in the proceedings of any of the officers intrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise effect the validity of the tax or assessment.

Informality not to vitiate tax.

SECTION 18. In case the city treasurer is unable to collect any tax assessed upon any personal property, and payable by any person named in the tax list, he shall proceed in all things according to chapter 49, of the revised statutes, of this state, and the acts amendatory thereto, in bringing such delinquent person before some justice of the peace, and such proceedings shall be had as are provided by said chapter 49, and any act that may be hereafter passed amendatory to said chapter or in addition thereto.

CHAPTER IX.

FIRE DEPARTMENT.

Fire limits, etc.

SECTION 1. The common council, for the purpose of guarding against the calamities of fire, shall have the power to prescribe the limits with-

in which wooden buildings or buildings of other materials that shall not be considered fire-proof, shall not be erected or repaired, and to direct that all and every building within the limits prescribed shall be made and constructed of fire proof materials, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, when the same shall have been damaged to the extent of fifty *per cent.* of the value thereof, and to prescribe the manner of ascertaining such damage, and to prescribe the penalties for the violation of any resolution or ordinance passed under this section.

SECTION 2. The common council shall have the power to prevent the dangerous construction and condition of chimneys, fire places, hearths, stoves, stovepipes, ovens, boilers and apparatus used in and about any building, and to cause the same to be removed or placed in a safe condition when considered dangerous; to prevent the deposit of ashes in unsafe places; to require inhabitants to provide as many fire buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire; to regulate and to prevent the carrying on of manufactories dangerous in causing or promoting fires; to regulate and prevent the use of fireworks and fire-arms; to compel the owners and occupants of buildings to have scuttles in the roof, and stairs or ladders leading to the same; to authorize the mayor, aldermen, fire wardens and other officers of the city to keep away from the vicinity of a fire all idle and suspected persons, and to compel all bystanders to aid in the extinguishment of fires and in the preservation of property exposed to danger thereat, and generally to establish such regulations for the prevention and extinguishment of fires as the common council may deem expedient and to provide penalties for the violation of any resolution or ordinance passed under this section.

SECTION 3. The common council shall have full power to purchase fire-engines and other fire apparatus, and to authorize the formation of fire-engine, 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 their meetings to be

Powers to
secure safety
from fire.

Fire-engines
and apparatus,
purchase of.
Organization
of fire compa-
nies.

prohibited, and their apparatus to be delivered up. Each company shall not exceed seventy able bodied men between the ages of eighteen and fifty years, and may elect its own officers except chief engineer and assistant engineer, who shall be appointed by the council and form its own by-laws, not inconsistent with the laws of this state or the ordinances and regulations of said city, and shall be formed only by voluntary enlistment. Every member of said company hereby authorized to be formed, shall be exempt from highway work and poll tax, and from serving on juries, during the continuance of such membership, and any person having served for the term of ten years in either of such companies, shall be forever thereafter exempt from poll tax and jury duty.

Fire wardens.

SECTION 4. The mayor shall appoint two fire wardens for each ward subject to confirmation by the common council, who shall perform such duties as the common council may prescribe, and they may at any time enter into any building, house, store, barn or inclosure for the purpose of inspecting the same.

One-half of penalties to be paid to fire department.

SECTION 5. One-half of the net proceeds of all fines and penalties collected and recovered for the breach of any ordinance, by law or regulation made in pursuance of this chapter, shall be paid by the city treasurer to the fire department.

Penalty for refusal to obey officer at fire.

SECTION 6. When any person shall refuse to obey the lawful order of any engineer, fire warden or alderman of the city, the mayor or city marshal at any fire, it shall be lawful for the officer giving such order to arrest, or to direct orally the marshal, constable, watchman or any citizen to arrest such person, and to confine him temporarily in any safe place until such fire shall be extinguished; and in the same manner such officer, or any of them may arrest or direct the arrest and confinement of any person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to arrest or aid in arresting any person so refusing, shall be liable to such penalty as the common council may prescribe not exceeding twenty dollars.

Sack companies, members of to have police powers.

SECTION 7. The common council shall have the power to organize a sack company or to countenance any such company now organized, which shall be known by such name as they may select,

and shall consist of not more than thirty members. Such company shall constitute a part of the fire department, and at fires shall be subject to the control of the engineer. The members of said company, either collectively or individually, are hereby authorized and empowered to act as special police in and for said city of Cumberland, and are hereby vested with all the power and authority which is now or may hereafter be vested in any other police officer of said city; and shall be entitled to all the rights and immunities of members of the fire department, except exemption from jury duty. At fires they shall take charge of all property which may be exposed or endangered, and shall, as far as may be in their power, preserve the same from injury or destruction. Such company may, from time to time, adopt such by-laws as they deem necessary, not inconsistent with the laws of this state, or the ordinances of said city. The members shall not be entitled to any compensation for any service rendered in their official capacity. They shall, in case of riot or disturbance of the peace, have access to all licensed places of amusement in the city, and shall perform such services as may be necessary for the peace and good order of the same.

SECTION 8. The treasurer of the fire department shall receive and pay out all moneys belonging to said department, and shall secure the faithful performance of his duty by his bond to said city in such penal sum as shall be required and with sureties to be approved by the common council. Such money shall only be paid out on orders signed by the chief engineer or acting chief engineer, and countersigned by the clerk of said department.

Treasurer of
fire department
to give
bond.

SECTION 9. There shall be elected by the members of each company aforesaid, annually, at their annual meetings, a clerk or secretary, and a treasurer, who shall, on or before the first Monday of May in each year, return to the city clerk a list containing the name of each member of their respective companies, and when any member of either of said companies shall cease to be a member thereof by resignation, expulsion or otherwise, notice thereof shall be given to the city clerk.

Officers of fire
companies;
duties.

City clerk to keep record of members of fire companies.

SECTION 10. The city clerk is hereby required to keep a record of the members of the several companies organized under this chapter and such record shall consist of the returns made by the several clerks or secretaries, as above provided, and no person shall be exempt from jury duty unless the name is entered on such list. In case any person shall for any cause, cease to be a member of either of said companies, the clerk shall note that fact on the list thereof and shall return to the clerk of the board of supervisors of the county of Barron, a list of all persons who are members of either or all of said companies exempt from jury duty, on or before the day now appointed or which may hereafter be appointed for the annual meeting of said board; and said board shall not place the names of such persons on the jury list for the ensuing year.

CHAPTER X.

ACTIONS TO RECOVER PENALTIES, ETC.

Actions to be brought in corporate name of city.

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

Prosecutions for violations of ordinances, etc.

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

Prosecution by summons.

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

Form of summons.

County of Barron, }
City of Cumberland, } ss.

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

city of Cumberland: You are hereby commanded to summon A. B., if he shall be found within your county, to appear before the undersigned, Third Municipal Judge in and for said county, at my office in said city, on the . . . day of, 18.., at . . . o'clock in the . . . noon, to answer to the city of Cumberland in a plea of debt to the damage of said city, five hundred dollars or under.

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

.
Third Municipal Judge.

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

Return of summons.

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

Prosecution by complaint.

The City of Cumberland,)
) against
) A. B.)
In Third Municipal Court,)
 Before)
Third Municipal Judge.)

Form of complaint.

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

SECTION 6. In all cases where oath is made for a warrant for the complaint it shall be made on the oath of the complainant and no other affidavit shall be necessary, which last mentioned com-

Complaint upon oath for warrant.

plaint may be substantially in the following form:

Form of complaint.

State of Wisconsin, in Third Municipal Court, Barron County, Before Third Municipal Judge.

The City of Cumberland, } Against A. B }

State of Wisconsin, } ss. Barron County. }

..... being duly sworn complains on oath, that A. B., on the day of A. D. 18.... at said city, did violate section of chapter of this act, or section of an ordinance, by-law or regulation of said city (describing it by its title,) in that he did then and there, contrary to said chapter, ordinance, by-law or regulation (here insert the act or omission complained of,) which said is now in force, as this complainant verily believes, and prays that the said A. B., may be arrested and held to answer to said city of Cumberland therefor.

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

It shall be sufficient to give the number of the section and chapter of this act, or the section of the ordinance, by-law or regulation violated in the foregoing forms of complaint, and said complaint may be sworn to before any officer authorized to administer oaths. Upon the filing of such complaint with the judge, he shall issue a warrant substantially in the following form:

Form of warrants

County of Barron, } ss. City of Cumberland. }

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

Whereas, has this day complained to me in writing on oath, that A. B on the day of, 18.., at said city, did violate section of chapter of this act or section of an ordinance, or by-law, or regulation of said city (describing it by its title), which said is now in full force as the complainant believes; therefore you are commanded to arrest the body of said A. B. and bring him before me forthwith to answer

to the city of Cumberland on the complaint aforesaid

Dated this day of, 18..

C. D., Third Municipal Judge.

Upon the return of the warrant the judge may proceed summarily with the case unless it be adjourned by consent or for cause. If the case be adjourned the defendant, if required by the court so to do, shall recognize with security, to be approved by the court, for his or her, or their appearance, in such sum as the court shall direct, or in default thereof, may be put in charge of the officer who made the arrest, or be committed to the common jail of Barron county. The complaint made as aforesaid, shall be the only complaint required, and the plea of not guilty shall put in issue all subject matters embraced in the action.

Proceedings upon return of warrant.

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 authority of the common council, shall be *prima facie* evidence of its due passage and publication, and shall be received in evidence on the trial of all cases cognizable before any court of this state.

Printed copy of ordinance to be *prima facie* evidence.

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

Witness and juror fees not required to be paid in advance.

SECTION 9. In city prosecutions the findings of the court shall be, "guilty," or "not guilty." If guilty, the court shall render judgment thereon against the defendant for the time, penalty or forfeiture prescribed in this act, or in the ordinance, by-law or regulation, for the violation of which the person or persons shall have been adjudged guilty and for costs of suit; but if not guilty, the costs of suit shall be taxed against the city; upon the rendition of judgment against the defendant, and the non-payment thereof, the judge shall forthwith issue execution, as in case of tort, in case the action was commenced by summons, or a commitment in case it was commenced by warrant, and shall in either case determine and enter upon his docket the length of time the defendant shall be imprisoned, which

Findings of court; penalty and costs.

shall in no case exceed six months, and also insert such time in the execution or commitment. Such execution shall be in the following form:

Form of
execution.

County of Barron, }
City of Cumberland. } ss.

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

Whereas, the said city of Cumberland, on the day of, 18.... recovered a judgment before the undersigned, third municipal judge in and for Barron county, against for the sum of dollars and cents (fine, penalty or forfeiture, as the case may be), and costs of suit, for the violation of section, of chapter of this act, or section of an ordinance, or by-law, or regulation of said city (describing it by its title); you are hereby commanded to levy distress on the goods and chattels of said , excepting such as the law exempts, and make sale thereof according to law to the amount of said sum, together with your fees and twenty five cents for this writ, and the same return to me in 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 in Barron county, and the said keeper is hereby commanded to receive and keep in custody in said jail the said for the term of, unless the said judgment, together with all the costs and fees, are sooner paid or he be discharged by due course of law.

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

C. D., Third Municipal Judge

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

Appeal from
judgment for
recovery of
fines.

SECTION 10. In all cases when judgment is rendered against a defendant for the recovery of fines or penalties mentioned in this act, or the ordinances now in force or hereafter to be ordained, the defendant may appeal from such judgment to the circuit court of the county of Barron; provided, such defendant within twenty-four hours enters into a recognizance with one or more

sufficient sureties, to be approved by such judge, condition to appear before said court and abide the judgment of the court therein. The judge from whose judgment an appeal shall be taken, shall make a special return of the proceedings had before him and shall forthwith cause the summons or warrant and return together with the proceedings, and a copy of the entries on his docket in the action, together with the recognizance to be filed in the office of the clerk of said court; and the city may appeal from any such judgment, as in other cases before justices of the peace.

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

Appeal to stand for trial without notice.

SECTION 12. If the judgment of the judge 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, resolution, by-law or regulation under which he or they are prosecuted, and enter judgment against him or them, and their sureties, for such penalty, together with the costs in both courts, and enforce the same by execution, as in actions of tort.

Judgment on appeal.

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

Residence not to work in competency of judge, etc.

SECTION 14. All actions, rights and penalties, fines and forfeitures, in suits or otherwise, which have arisen or accumulated under the several acts consolidated herein shall be vested in and prosecuted by the corporation hereby created.

Actions, rights, etc., vested in corporation.

SECTION 15. When any suit or action shall be commenced against said city, the service thereof may be made by serving a copy of the process or summons on the mayor, or clerk of said city, and it shall be the duty of the mayor or clerk so served, forthwith, to inform the common council thereof or to take such action or proceedings as by ordinance or resolution of said council may be in such case provided.

Action against city, how brought.

Disposition of penalties and forfeitures.

SECTION 16. All penalties and forfeitures, recovered and collected under and by virtue of this act, shall be paid into the city treasury for the use and benefit of said city, except as provided in chapter 8 of this act.

Fire-engines, apparatus, etc., to be exempt from execution.

SECTION 17. All fire-engines, hose carts, hooks and ladders and wagons therefor, and all other apparatus and implements used to extinguish fire, and all houses or buildings owned or occupied by said city for such engines, hose, hose carts, hooks and ladders, and all other apparatus implements, shall be exempt from attachment or execution issued in any action or on any judgment wherein the said city shall be a party.

Property of citizens exempt from city execution.

SECTION 18. No real or personal property of any inhabitant of said city or of any individual or corporation, shall be levied on or sold by virtue of any attachment or execution issued to collect or satisfy any contract, debt or obligation of said city, or on any judgment against said city.

Mayor may grant pardons.

SECTION 19. The mayor shall have power to grant pardons or commutations after conviction for all offenses against the ordinances of the city upon such conditions as he may deem proper. He shall communicate any such actions to the council at its next meeting with the reason therefor.

CHAPTER XI.

CITY IMPROVEMENTS.

Power to contract for street improvements.

SECTION 1. The council shall have power to order and contract for the making, grading, paving, macadamizing, repairing and cleaning of streets, alleys, public grounds, reservoirs, gutters, sewers, drains and sidewalks in the manner hereinafter mentioned, and direct and control the persons employed therein.

Improvements chargeable to general fund.

SECTION 2. The cost and expense of surveying or repairing streets, alleys, sidewalks, drains and sewers, and of estimating work thereon, in the execution of any public improvement, shall be charged to and payable by the city. The cost and expense of opening, grading, gravelling, paving, macadamizing or planking streets and alleys, and constructing or repairing sidewalks, shall be pay-

able out of the general funds of the city. Sewers, crosswalks and drains may be ordered by the council, and all costs and expenses, as well as the damages which shall be sustained by owners of lands through which the same shall pass, shall be charged to and payable by the city.

SECTION 3. Whenever the council shall require any street to be graded, paved or macadamized, it shall determine the manner in which the work shall be done, and of what material; and the street commissioner, or such other person or officer as the council may designate to have charge of the work, shall let a contract for doing the whole of such work. Public notice for the letting of such contract shall be given by advertisement in the official paper of the city for at least twenty days, and the contract shall be awarded to some responsible bidder, whose bid it shall deem most reasonable and proper; the cost of such grading, paving or macadamizing shall be paid by the city, out of the general funds of the city.

Council to determine manner of making street improvements. Contracts.

SECTION 4. In case no bids shall be received for the performance of any work required to be done by this act, the council may cause such work to be done under the supervision of the street commissioner, or a committee of the council, and the expense for doing the same shall be paid for by the city out of the general funds of the city.

Work to be done under supervision of street commissioner, when.

CHAPTER XII.

MISCELLANEOUS PROVISIONS.

SECTION 1. All work for the city or either ward, including all printing and publishing, may, in the discretion of the council, unless otherwise ordered, be let by contract to the lowest bidder, and due notice shall be given of the time and place of letting the contract.

Contracts to be let in discretion of council.

SECTION 2. No money shall be appropriated for any purpose whatever, except such as is expressly authorized by this act.

Act to govern appropriations.

SECTION 3. No penalty or judgment recovered in favor of the city shall be remitted or discharged except by a two-thirds vote of the aldermen elect.

Penalties and judgments, how remitted.

Survey and
plats.

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 the streets, alleys, sidewalks, public grounds, wharves and blocks, and may cause to be established such permanent land marks as they 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 Barron.

Surveys and
landmarks to
be prima facie
evidence.

SECTION 5. 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, wharves and blocks, in all cases in which they shall be drawn into controversy in all courts in this state.

Establishment
of grades; pro-
files to be filed.

SECTION 6. The common council may, at such times as they may deem proper, establish the grade 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 Barron 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.

Real and per-
sonal estate,
city may pur-
chase and hold.

SECTION 7. The city may have, purchase and hold real and personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same; and the same while owned, occupied or held by said city shall be exempt from taxation.

Exempted
property sub-
ject to special
taxation.

SECTION 8. Real estate exempt from taxation by the laws of this state, shall be subject to special taxation as other real estate under this act.

Deeding or
leasing real
estate.

SECTION 9. When the city of Cumberland deeds or leases any real estate, or any interest therein owned by said city, the party of the first part shall be the city of Cumberland, and the person or persons authorized to execute such deed of lease need not be named in the body thereof.

Mayor and
clerk to exe-
cute deeds and
leases, when.

SECTION 10. The mayor of said city is hereby authorized when the common council shall by or-

dinance or resolution for that purpose describe the real estate and interest to be conveyed under, and direct him so to do, to execute a deed or lease of such real estate or interest therein belonging to the said city. The said deed or lease shall be signed by the mayor of the city and countersigned by the city clerk and sealed with the corporate seal of said city and duly witnessed and acknowledged as is provided for the execution of deeds and conveyances.

SECTION 11. When any such deed or lease is so executed, the city clerk shall attach to such deed or lease, a true copy by him duly certified, of the ordinance or resolution aforesaid, and the same shall be recorded by the register of deeds with said deed or lease, and such copy so attached and record thereof shall be in all courts of this state *prima facie* evidence of the authority of the mayor to make and execute such deed or lease.

Copy of ordinance, etc., to be attached to deed or lease.

SECTION 12. If any election by the people for members of the common council shall for any cause not be held at the time or in the manner herein prescribed, or if the council shall fail to organize as herein prescribed, it shall not be considered reason for arresting, suspending or absolving said corporation; but such election or organization may be held at any subsequent day by order of the common council, and if any of the duties enjoined by this act, or the ordinances or by laws or regulations of said city, to be done by any officer at any time specified, and the same are not then done or performed, the common council may appoint another time at which said act may be done and performed.

Failure to hold election or to organize council not to arrest or absolve corporation.

SECTION 13. No general law of this state contravening the provisions of this act shall be considered as repealing, annulling or modifying the same unless such purpose be expressly set forth in such law as an amendment to this charter.

General laws not to interfere.

SECTION 14. The common council shall have power to appropriate a sum not exceeding three hundred dollars in any one year for the improvement of roads leading into the city or for any other public purpose they may deem proper, but no such appropriation shall be made unless ordered by a two-thirds vote of all the aldermen-elect.

Appropriation for highways.

Poll tax, who to pay; collection. May be paid or worked out.

SECTION 15 Every male inhabitant in the city of Cumberland, over twenty-one years of age and under fifty, except active members of the fire department, and those otherwise exempted by the general laws of this state, shall pay into the city treasury annually one dollar and fifty cents each, as a poll tax. It shall be the duty of the assessor of the city of Cumberland, during the month of April of each year, to make out duplicate lists of all persons liable to said tax in the city of Cumberland, and said assessor shall on the last Monday of April of each year, deliver one of said lists to the city clerk and one to the treasurer of said city of Cumberland. The said treasurer shall thereupon immediately proceed to collect the same, and all persons liable to pay such tax, who shall not have paid the same after demand, either personal or by written notice, left at their usual place of abode, on or before the first day of June of each year, shall be liable to, and shall pay a penalty of two dollars in addition to said poll tax, together with the costs of prosecution, to be prosecuted for by said treasurer in the name of the city of Cumberland. The process in each case shall be by warrant as provided for in chapter 10, of this act, entitled, 'Actions to Recover Penalties, etc.' and in case judgment shall be rendered against the defendant in such action, and he shall refuse or neglect to pay such judgment, he shall be imprisoned in the county jail ten days. The moneys collected as herein provided for shall be paid into the general fund of the city. The mayor, city clerk and treasurer shall constitute a board to determine the liability of persons to pay such tax, and all persons claiming to be exempt from such tax must apply to said board within twenty days from the time when said list shall be delivered to the treasurer as aforesaid. The city treasurer shall receive the same fees for collecting said taxes as he does for collecting taxes assessed upon real and personal property; provided, that if any person shall desire to, he shall be permitted to perform one day's work upon the streets of the city, and the certificate of the street committee that such person has performed one full day's labor shall be received by the treasurer of said city in full discharge of such tax.

SECTION 16. In all cases where an action might be brought by the city of Cumberland against any person, company or corporation, such action may be commenced and prosecuted in the name of the city by any elector of said city.

Electors may prosecute in the name of the city.

SECTION 17. The common council shall have power to require the owner of any lot or grounds, in said city, to set out ornamental trees in the street or streets, fronting on the same, and in default thereof to cause the same to be done and to levy a special tax upon a lot or grounds to pay the expenses of the same.

Ornamental trees.

SECTION 18. This act shall not invalidate any legal act done by the common council of the city of Cumberland or by its officers, nor divest their successors under this act of any rights of property or otherwise, or any liability which may have accrued to or against said corporation prior to the passage of this act, and all ordinances, rules and regulations now in force in said city, not contravening the provisions of this act, shall be and remain in force until altered or repealed by the common council. The present officers of said city of Cumberland shall hold their respective offices until the officers specified in this act shall have been elected and qualified.

Act not to invalidate previous acts of council, etc.

SECTION 19. The city of Cumberland may, in accordance with the provisions of chapter 41 of the revised statutes of this state, borrow money in a sum not exceeding ten thousand dollars, and issue its negotiable corporate bonds therefor, for the purpose of aiding in the establishment of manufacturing industries within said city; provided, that no bonds shall be issued by said city until the proposition for their issue, setting forth the special purpose thereof, and the conditions of granting such aid, shall have been published for six successive weeks in the official paper of said city, and shall have been thereafter submitted to a vote of the people of said city, and adopted by a majority voting thereon.

Borrow money and issue bonds, how.

SECTION 20. The said city of Cumberland shall maintain and support the poor and indigent persons within the city limits, and the laws of the state for the relief and support of the poor in towns shall apply to said city, and the common council shall make such rules, regulations, or

Support of poor.

ordinances and provisions in relation to the same as they shall deem proper.

Public act.

SECTION 21. This act is hereby declared a public act, and shall be liberally construed in all courts of this state.

Repealed. Repeal not to invalidate contracts.

SECTION 22. All acts or parts of acts inconsistent and conflicting with the provisions of this act, together with the act of which this is amendatory, are hereby repealed, but the repeal of said acts or parts of acts shall not in any manner affect, injure or invalidate any contracts, claims, penalties or demands that may have been entered into, performed, commenced, or that may exist under, or by virtue or in pursuance, of the said act, or any former act incorporating the village of Cumberland, or any of them; but the same shall exist and be enforced and carried out and be completed as fully and effectually, to all intents and purposes, as if this act had not been passed.

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

Approved March 27, 1891.

No. 52, S.]

[Published April 7, 1891.

CHAPTER 100.

AN ACT to legalize the revised ordinances of the city of Black River Falls.

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

Revised ordinances legalized.

SECTION 1. The revised ordinances of the city of Black River Falls, in this state, are hereby legalized and declared as valid, to all intents and purposes, as though they had been published within the time and recorded within the time, with the affidavits of publication, as provided by the charter of said city; and the pasting of printed copies of such ordinances upon the leaves of the record book of said ordinances is hereby deemed