

CHAPTER 124.

[Published April 9, 1868.]

AN ACT to revise, consolidate and amend the act to incorporate the city of Appleton, and the several acts amendatory thereof.

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

CHAPTER ONE.

CITY AND WARD BOUNDARIES.

SECTION 1. All the district of country in the county of Outagamie, contained within the limits and boundaries hereinafter described, shall be a city by the name of Appleton, and the people now inhabiting, and those who shall hereafter inhabit, within the district of country herein described, shall be a municipal corporation, by the name of the city of Appleton, and shall have the general powers possessed by municipal corporations at common law, and in addition thereto, shall possess the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession, shall be capable of contracting and be contracted with, of suing and being sued, pleading and being impleaded, in all courts of law and equity, and shall have a common seal, and may change and alter the same at pleasure.

City of Appleton.

SECTION 2. The territory included within the following boundaries and limits, shall constitute the city of Appleton, to wit: All of sections twenty-five, (25,) twenty-six, (26,) and the S. half of section twenty-seven, (27,) and sections thirty-four, (34,) thirty-five, (35,) [and] thirty-six, (36,) in town twenty-one, (21,) north of range seventeen east.

Boundaries.

SECTION 3. The said city shall be divided into four wards, as follows: The first ward shall be all that portion lying east and north of the following line: Commencing at a point on the north line of the city limits, due north of and opposite to the center of the northern extremity of Drew street; thence south to the northern extremity of Drew street; thence south along the centre of said Drew street to the south line of College avenue; thence east to the east line of block one, (1,) in Appleton plat; thence south to the center of

Wards.
First.

- Second. Fox river; thence along the center of said river to the city limits. The second ward shall be that portion lying east and north of the following line, and not included in the first ward: Commencing at a point in the north line of the corporate limits, due north of the northern extremity of North Division street, as marked on Stephens' lithographic map; thence along the center of said street, which is hereby named and established as Western avenue, and through the court house square to the center of Elm street; thence south along the center of Elm street to the center of Fox river; thence down the center of said Fox river to the southwest corner of said first ward. The third ward shall be and include all the remaining portion of territory, north of the center of Fox river, not included in the first and second ward [wards.] The fourth ward shall be and include all that portion of territory lying south of the center of Fox river, in the said city limits.
- Third.
- Fourth

CHAPTER TWO.

ELECTIONS.

Annual election. SECTION 1. The annual election for ward and city officers shall be held on the first Tuesday of April, of each year, at such place in such [each] ward as the common council shall designate, and the polls shall be kept open from nine o'clock in the forenoon till sundown, but the board may adjourn the polls at 12 o'clock, noon, for one hour; and ten days' previous notice shall be given by the common council of the time and place of holding such elections, and the city and ward officers to be elected.

Elective officers. SECTION 2. The elective officers of said city shall be a mayor, clerk, treasurer, justice of the peace, and two aldermen for each ward, one assessor and one marshal for said city. 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 number, and to remove from office any officer or agent under the city government, due notice being first given to the officers

Expulsion, removal, &c.

complained of. The justice of the peace shall hold his office for two years, and until his successor is elected and qualified.

SECTION 3. Whenever a vacancy shall occur in the office of mayor or alderman, such vacancy shall be filled by a new election, which shall be ordered and held within ten days after such vacancy shall occur. Any vacancy happening in any other office, shall be filled by the common council. The person elected or appointed to fill any vacancy, shall hold his office and discharge the duties thereof for the unexpired term, and with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

Vacancies—how filled.

SECTION 4. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots, in the presence of the common council, at such time and in such manner as they shall direct.

Elections to be by ballot.

SECTION 5. All persons entitled to vote for county officers, who shall reside within the ward where they offer to vote, shall be entitled to vote for any officer to be elected under this law, and to hold any office thereby created.

Qualifications of voters.

SECTION 6. The election in said city shall be held and conducted by the aldermen of each ward, who, with one qualified elector, to be chosen *viva voce* by the electors present, shall be inspectors of elections, and shall take the usual oaths or affirmations, as prescribed by the general laws of this state to be taken by the judges and inspectors of elections, and shall have the power to appoint clerks of such elections, and to administer the necessary oaths. Said elections shall be held and conducted in the same manner and under the same penalties, and vacancies in the board of inspectors thereof filled, as required by the laws of this state regarding elections.

Aldermen to be inspectors of elections.

SECTION 7. If either of the inspectors shall suspect that any person offering a vote does not possess the qualification [qualifications] of an elector, or if such vote be challenged by an elector, the inspector, before receiving the vote of any such, shall require him to

Challenge.

Oath.

take the following oath: "You do solemnly swear, (or affirm, as the case may be,) that you are twenty-one years of age, and that you are a citizen of the United States, (or have declared your intention to become a citizen, conformably to the laws of the United States on the subject of naturalization;) that you have resided within the state of Wisconsin one year next preceding this election; that you now reside in this ward, and that you have not voted at this election, and that you have made no bet or wager, or become directly or indirectly interested in any bet or wager depending on the result of this election;" and if the person offering to vote shall take such oath, his vote shall be received.

Punishment for false swearing.

And if such person shall take such oath falsely, he shall be deemed guilty of willful and corrupt perjury, and upon conviction thereof upon indictment, shall suffer the punishment provided by law for persons guilty of perjury. If any person who is not a qualified voter shall vote at any election, or if any person duly qualified shall vote in any other ward than the one in which he resides, or shall vote more than once at any one election, he shall be liable to indictment, and on conviction thereof shall forfeit and pay a sum not exceeding one hundred dollars, nor less than twenty-five dollars. It shall be the duty of the inspectors to keep a list of the names of all persons whose votes may be challenged as aforesaid, and who shall swear in their votes; and if any inspector shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns of an election, or if any clerk shall not write down the name of every voter as he votes, or shall willfully make untrue and incorrect count and tallies of votes, each and every such inspector and clerk shall be liable to indictment, and on conviction thereof, shall severally forfeit and pay a sum not exceeding five hundred dollars, nor less than one hundred dollars. All such indictments shall be tried in the circuit court of the county of Outagamie.

Inspectors to keep list of names of persons challenged.

Returns of elections.

SECTION 8. When an 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 one week after any

election. The common council shall meet and canvass said returns and declare the result, as it appears from the same, and the city clerk shall forthwith give notice to each person elected of his respective election.

SECTION 9. . Special elections to fill vacancies, or for any other purpose, shall be held and conducted by inspectors provided for in section six of this chapter, in the same manner, and the returns thereof shall be made in the same form and manner, as general or annual elections, and within such time as may be prescribed by ordinance. Special elections.

SECTION 10. 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 hereinafter prescribed. Council to fill vacancies.

SECTION 11. There shall be elected at the first election under this act, one alderman for each ward, who shall hold his office for two years, and the alderman elected for two years at the last election under the former city charter, shall hold his office for the term for which he was elected. First election—what officers to be elected.

SECTION 12. The votes for aldermen and all other elective officers, shall be on one ballot, and shall be deposited in one ballot-box. One ballot.

SECTION 13. There shall be written or printed, or partly written or printed, at the head of the votes for alderman for two years, the words "alderman for two years," and at the head of the votes for alderman for one year, "alderman for one year." Distinction

SECTION 14. All the city and ward officers now in office shall hold their respective offices until their successors shall be elected or appointed under this act; and the term of every officer elected under this law, shall commence on the second Tuesday of April of the year for which he was elected, and shall, unless herein otherwise provided, continue for one year, and until his successor is elected and qualified. Officers now in office.

SECTION 15. All duties herein required of the common council and aldermen, in regard to elections, shall be performed, so far as may be necessary, by the present common council and aldermen, in regard to the Present council to perform certain duties.

first election and the organization of the city government under this law.

In case of failure to elect.

SECTION 16. 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 of holding the election being first given.

First election—justice.

SECTION 17. The first election of officers under the provisions of this act, shall be held on the first Tuesday of April, A. D. 1863. The election of the justice of the peace under this act, shall be held at the same time and place, and so every two years thereafter; and the justices of the peace now residing in that district of country constituted by this act as the city of Appleton, shall hold their offices until their terms of office expire, and their successor is elected and qualified.

No change of venue from prejudice.

SECTION 18. Neither the defendant nor his attorney, or other person on his behalf, shall have the right to remove any action, either civil or criminal, from the justice of the peace elected by virtue of this character, [charter,] on the grounds and for the reason that, from prejudice, such justice of the peace will not decide impartially in the matter.

When change may be taken.

SECTION 19. In case it shall be sufficiently proved to the satisfaction of said justice of the peace, that he is interested or has been counsel in any civil action pending before him, or that he is near of kin to either party, it shall be the duty of such justice of the peace to transmit immediately all the papers in the case to the circuit court for Outagamie county, which court shall try the action between the parties in the same manner as if the same had come into said court by appeal. And the plaintiff shall pay to such justice of the peace, on such removal, the sum of twenty-five cents for transmitting such papers, and the sum of one dollar for state tax; and the clerk of the said court shall receive and file the papers in such case.

When cause shall be tried by jury.

SECTION 20. If, after joining issue in any action pending before such justice, and before any witness is sworn therein, either party, his agent or attorney, shall make affidavit that such justice is a material witness for such party in such action, without whose testimony he cannot safely go to trial, and shall file the same with such justice, the party so making and filing such affidavit must, at the time of filing thereof, deposit with

such justice the sum of one dollar and fifty cents for jury fees. The said justice shall then cause a jury to be called and impaneled, as in other justice courts, and said action shall be tried by such jury, and the said justice shall render judgment therein on the verdict of such jury; and if said party require that said justice shall be sworn as a witness in such case, any person who, by the laws of this state, is authorized to administer oaths, shall administer the proper oath to such justice, who shall testify in the case, the same as other witnesses.

SECTION 21. In all actions brought before such justice, wherein an issue shall be joined and a trial had thereon, there shall be allowed to the prevailing party two dollars for such trial, in addition to the costs now allowed in trials before justices of the peace; and the same shall be taxed in the bill of costs against the losing party. Additional costs.

CHAPTER THREE.

OFFICERS—THEIR POWERS AND DUTIES.

SECTION 1. Every person elected or appointed to any office under the provisions of this act, except the justice 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, street commissioner, and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city or Appleton 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 and 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 or additional bonds, and remove from office any officer refusing or neglecting to give the same. Oaths and bonds of officers.

SECTION 2. The mayor shall, when present, preside over the (*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 Mayor to provide.

the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be chief executive officer and head of the police of the city, and in case of a riot or other disturbances, he may appoint as many special or temporary constables as he may deem necessary. The mayor shall have a vote only in case of tie. The mayor shall have power to veto any ordinance or resolution passed by the common council, by notifying the common council of his objections thereto, at any time within seven days after the passage of such ordinance or resolution. In case of no session of the council in any day after the passage of the same, and before the expiration of said seven days, such notification shall be made by filing with the city clerk a copy of his objections. And in case the council shall not, at the next regular meeting after receipt of such objections, or such filing with the clerk, re-enact such ordinance or pass such resolution by the votes of two-thirds of the aldermen elect, the same shall be null and void. No ordinance or resolution shall take effect until one week after the passage of the same, unless approved by the mayor in writing.

To be chief of police.

To have power to veto.

Election of president—his duties.

President pro tem.

Marshal.

SECTION 3. At the first meeting of the common council, each year, they shall proceed to elect, by ballot, one of their number 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 the signing of city orders. 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 president or temporary presiding officer, while presiding over the board or performing the duties of mayor, shall be styled acting mayor, and acts performed by them, or either of them, shall have the same force and validity as if performed by the mayor, except the signing of city orders. And the said common council shall also elect, at their first or second meeting after the charter elections, a marshal for the city, for the term of one year, and until another is elected and qualified.

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 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 safely keep the same, receiving therefor the same compensation as clerks of towns; and all chattel mortgages 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.

Clerk—his duties.

SECTION 5. The justice of the peace elected under this act, shall have the same jurisdiction and perform all the duties of justices of the peace, and shall qualify in the same manner as provided by the general laws of this state, except that his official bond shall be approved by a majority of the common council; and in addition thereto, he shall have jurisdiction in all cases arising under the ordinances and laws passed by said city, unless therein otherwise provided.

Jurisdiction of justice.

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, fine, forfeiture or otherwise, under the authority of this act, or which belongs [belong] to the said city, shall be paid into the city treasury, and shall not be drawn therefrom except by an order signed by the mayor, by order of the common council, 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 person from whom the amount of the several sums was received, which books shall at all reasonable times be

Treasurer—his duties.

open to the inspection of any person. He shall, as often as the common council require, render to said 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, and for this service, except as herein otherwise provided, he shall have the same powers and be subject to the same liabilities, and be governed by the same laws, as treasurers of towns.

Duties of marshal.

SECTION 7. The marshal shall perform such duties as shall be prescribed by the 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 ordinance of said city, or law of the state, may pursue and serve the same in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances and breaches of the peace, and to remove all obstructions in the streets and alleys in said city, and to abate all nuisances in said city, to apprehend any person in the act of committing any offense against any ordinance of said city or laws of this state, and within reasonable time bring such person before competent authority for examination; and for such services he shall receive such fees as are allowed to constables for like services. He shall have the power to appoint one or more deputies, to be approved by the city council, but for whose official acts he shall be responsible, and of whom he may require a bond for the faithful discharge of their duties.

Deputies

Further duties may be required of officers.

SECTION 8. The common council shall have power, from time to time, to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, and to fix the compensation of all officers elected or appointed by them, and to fix the salary of the clerk of said city. 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 officer shall remain in office.

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. City printer.

SECTION 10. The city printer or printers, immediately after the publication of any notice, or ordinance, or resolution, which by this act is required to be published, shall file with the clerk of the city a copy of such 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 conclusive evidence of the publication of such notice, ordinance or resolution. Affidavits of printer.

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 of every description in his possession, belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city, one hundred dollars, besides all damages caused by his neglect or refusal so to deliver, and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of this state. Officers to deliver papers, &c., to successors—penalty.

SECTION 12. No alderman shall be a party to or interested in any job or contract with the city, or any of the wards, and any contract in which any alderman may be so interested, shall be null and void; and in case any money shall have been paid on any such contract, the common council may sue for and recover the amount so paid, from the parties to such contract, and the alderman interested in the same; and no compensation shall be allowed to the mayor or aldermen for their services, except for services as inspectors of elections. Aldermen to have no interest in contracts.

SECTION 13. The mayor or acting mayor, sheriff of Outagamie county, and each and every alderman, justice of the peace, marshal, policeman and watchman, shall be officers of the peace, and may command the peace, and suppress in a summary manner all rioting Peace officers.

and disorderly behavior within the limits of the city; and for such purpose may command the assistance of all bystanders, and if need be, of all citizens and military companies; and if any person, bystander, military officer or private 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 proceedings.

surveyor.

SECTION 14. There may be elected by the common council a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office at some convenient place within said city, and the common council shall prescribe his duties and fix the fees and compensation for any service performed by him. All surveys, profiles, plans or estimates made by him for the city or either of the wards, shall be the property of said city, and shall be carefully preserved in the office of the surveyor, open to the inspection of parties interested; and the same, together with all books and papers appertaining to said office, shall be delivered over by the surveyor, at the expiration of his term of office, to his successor or the common council.

CHAPTER FOUR.

THE COMMON COUNCIL—ITS GENERAL POWERS AND DUTIES.

style of ordinances, &c.

SECTION 1. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be, "The mayor and common council of the city of Appleton do ordain," &c. 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.

stated and special meetings.

SECTION 2. The common council shall hold stated meetings, and the mayor may call special meetings, by notice to each of the members, to be served personally or left at their usual place [places] of abode. The common council shall determine the rules of its own proceedings, and be the judge of the election and qualifications of its own members, and have the power to compel the attendance of absent members.

SECTION 3. The common council shall have the management and control of the finances and of all the property of the city, and shall likewise, in addition to the power 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 and by-laws for the government and good order of the city, for the suppression of vice, the prevention of crime, and for the benefit of trade, commerce and health thereof, as they shall deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinance, rules or by-laws; and such ordinance, rules and by-laws are hereby declared to be and have the force of law: *provided*, that they be not repugnant to the constitution and laws of the United States or of this state; and for these purposes, shall have authority by ordinances, resolutions or by-laws:

Powers of council.

Proviso.

1st. To license and regulate the exhibitions of common showmen, or shows of any kind, or the exhibitions of caravans, circusses or theatrical performances, billiard tables, bowling saloons, and to provide for the abatement and removal of all nuisances under the ordinances or at common law; and to grant licenses to such persons as they may deem proper to keep groceries, saloons, taverns and victualing houses, wherever may be sold strong, spirituous, ardent or intoxicating liquors to be drunk on the premises, in a quantity less than one gallon, under such regulations, conditions and restrictions as they may deem expedient: *provided*, that such license shall not be less than twenty-five dollars nor more than seventy-five dollars a year, and that no license shall be granted for a less term than one year.

Licenses.

Rates of liquor licenses.

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

Gambling.

3d. To prevent any riots, noise, disturbances or disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill-fame, and to au-

Riots, &c.

thorize the destruction of all instruments used for the purpose of gaming.

Abate filthy places.

4th. To compel the owner or occupant of any grocery, cellar, tallow-chandler shop, soap-factory, tannery, stable, barn, privy, sewer or other unwholesome, nauseous house or place, to cleanse, remove or abate the same, from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

Slaughter houses and gunpowder.

5th. 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 or other combustible materials.

Encumbering streets, &c.

6th. To prevent the encumbering of the streets, sidewalks, lanes or alleys with railroad cars, locomotives, engine or engines, carriages, carts, wagons, sleighs, boxes, lumber, firewood or any other materials or substances whatever.

Racing and bathing.

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

Animals.

8th. To restrain the running at large of cattle, horses, swine, sheep, poultry and geese, and to authorize the distraining and sale of the same.

Dogs.

9th. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner, when at large contrary to *(the)* ordinance.

Putrid animal matters.

10th. 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 who shall have upon his premises any such substance, putrid or unsound beef, pork, fish, hides or skins of any kind; and on default, to authorize the removal thereof by some competent officer, at the expense of such person or persons.

Pounds, water-works, hacks, lamps, &c.

11th. To make and establish public pounds, pumps, wells, cisterns and reservoirs, and to provide for the erection of water-works for the supply of water to the inhabitants, to erect lamps, and regulate and license hacks, cabs, drays, carts, and charges of hackmen, cabmen, draymen and cartmen in the city, and to provide for lighting the streets, public grounds and public buildings with gas or otherwise.

12th. To establish and regulate boards of health, provide hospital and cemetery grounds, regulate the burial of the dead, and the return of (*the*) bills of mortality, and exempt burial grounds set apart for public use from taxation.

Public health
and burial of
dead.

13th. To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Bread.

14th. To prevent all persons riding or driving any ox, mule, cattle or other animal on the side-walks in said city, or in any way doing any damage to such sidewalks.

Driving on side-
walk, &c.

15th. To prevent the shooting of firearms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the council dangerous to the city or any property therein, or annoying any citizen thereof.

Firearms, fire-
works, &c.

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

Drunkenness,
obscenity, &c.

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

Runners.

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

Markets, &c.

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

Butchers' stalls,
&c.

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

Hay, fuel, &c.

21st. To compel the owners and occupants of buildings or grounds to remove snow, dirt or rubbish from the sidewalks, streets or alleys opposite thereto, and to compel such owner or occupant 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

Clearing side-
walks.

officer of the city, at the expense of such owner or occupant.

Piers, &c.

22d. To regulate the construction of piers or wharves extending into Fox river, within the limits of said city, and to prescribe and control the prices to be charged for pierage and wharfage thereon.

Contagious disease cases.

23d. To regulate, control and prevent the landing of persons from boats or vessels, wherein are contagious or infectious diseases or disorders, and to make such dispositions [disposition] of such persons as to preserve the health of said city.

Auctions.

24th. To regulate the time, place and manner of holding public auctions or vendues.

Watchmen.

25th. To appoint watchman [watchmen] and prescribe their duties.

Weights, &c.

26th. To provide by ordinances for a standard of weights and measures, [measures,] and for punishment of the use of false weights and measures.

Shade trees.

27th. To protect trees and monuments in said city.

Drainage.

28th. To prescribe and regulate the manner of draining fountains made by individuals, and the construction of sewers within said city.

Streets, &c.

29th. To lay out, make, open, keep in repair, alter or discontinue any highways, streets, lanes, alleys, and to keep them free from encumbrances and protect them from injury.

Change names of streets.

30th. To alter or change the name of any street in the city.

Alter or vacate.

31st. To alter or vacate the recorded plat of said city or any part thereof surveyed, platted or recorded in the office of the register of deeds of Outagamie county, upon (*upon*) petition, and upon such notice as is required in vacating towns in the circuit court.

Mills, &c., in Fox river.

32d. To prevent the throwing or depositing in Fox river of any filthy or putrid substance, or of any slabs, chips, shavings or other substance.

Ordinances, &c., to be published.

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 be published in the official paper or papers of said city, 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, regulations or by-laws shall be recorded, the

Affidavits of publication.

publication thereof, respectively, within the said time, 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. No appropriation shall be made without a vote of a majority of the members of the common council in its favor, which vote shall be taken by ayes and noes, and entered among the proceedings of the council.

SECTION 5. The powers conferred [conferred] upon the said council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Depots, houses or buildings of any kind, wherein more than ten 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, [spirituous,] vinous or fermented liquors are sold without the license required therefor, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

In relation to nuisances.

SECTION 6. The council shall examine, audit and adjust the accounts of the clerk, treasurer, street commissioner of each ward, marshal, and all other officers and 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 book, 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 their 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 and agent of said city who may be found delinquents [delinquent] or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlements and adjustments.

Council to audit accounts of officers.

Refusal to have accounts audited.

Establish dock
lines, &c.

SECTION 7. The common council shall have power, by ordinance, to establish wharf and dock lines upon the banks of Fox river, restrain and prevent encroachment upon said river, and obstructions thereto; and to construct, alter and maintain, or cause to be constructed, altered and maintained, at the expense of the city, or any of the wards, wharves along the banks of the said river.

Council may
investigate acts
of mayor, &c.

SECTION 8. The common council shall have authority to examine into and investigate all and every official act and transaction of the mayor, any member of the common council, or any other officer of the said city, and also in and to all and every official act and transaction of every person who has heretofore been a member of the common council, or held any office under the city government; and for that purpose, the mayor of said city, the president of the council, or any member of any committee [committee] appointed by the council, shall have power to administer all necessary oaths to persons who may be called before said council, or any such committee, to give testimony. And the mayor of said city, (or the president of the council,) is authorized and empowered to issue a subpoena to be by him signed, commanding any person to appear before the council, or any committee [committee] appointed to testify concerning any matter under examination or investigation, as above provided, and also to produce before the council or such committee, any books, papers or documents relating to the matter under investigation and examination; and every person served with such process is hereby required to obey the same without the prepayment of any fees.

Contempt—pun-
ishment.

SECTION 9. If any person shall neglect or refuse to appear and testify and produce such papers, documents and books, as required by the last above named section, the common council may declare him in contempt, and upon proof of service, it shall be the duty of the county judge of Outagamie county, or the judge of every court of record, or any court commissioner of said Outagamie county, upon the application of the mayor of said city, or the president of the council, or of any committee [committee] appointed by such council, to issue a summary process, either in term time or vacation, for such a person, and to bring him before him; and then, unless such person shall purge himself

of contempt and go before the council or such committee, [committee,] and testify and produce such documents or papers or books, to commit him to the common jail of said Outagamie county, there to remain in close confinement untill [until] he shall so testify or produce the books, documents or papers as required, or he is discharged by the order of the common council or any such committee, [committee,] and the jailor of such county is hereby required to secure any such person pursuant to any such commitment.

SECTION 10. Such examination and investigation may be had, done and taken by the common council when in session, or by a committee [committee] to be appointed by the council, who are authorized to perform such duties when the council is not in session. How examination may be had.

SECTION 11. Any admission which any person shall make when testifying before any such committee or the council, shall not be used against him as evidence in any civil or criminal suit. Evidence.

CHAPTER FIVE.

FINANCES AND TAXATION.

SECTION 1. All funds in the treasury, except school, state and county funds, and the special funds for street improvements, as provided for in section seven, chapter seven, of this act, shall be under the control of the common council, and shall be drawn out upon the order of the mayor and clerk, duly authorized by a vote of the common council; and all orders drawn upon the treasurer shall specify the purpose for which they were drawn, and shall be payable, generally, out of any funds in the treasury belonging to the city. Council to manage funds.

SECTION 2. The common council of said city shall annually levy upon the taxable property of such city, to defray the current expenses of said city, as follows: For the support of the poor, a tax not exceeding one thousand dollars; for ward purposes, a tax not exceeding one-fourth of one per cent. upon all the taxable property of each ward, and for all other purposes a tax not exceeding four thousand dollars. Annual tax—limit.

SECTION 3. Whenever it shall be necessary to build new bridges, a special tax may be levied for such purposes, not exceeding two thousand dollars in any one year, and when so levied the same shall be carried out Special tax—limit.

by the city clerk in a separate column in the assessment roll, particularly specifying the purpose for which such tax is levied, and the said taxes, when so levied, shall be collected at the same time as other city taxes are collected.

Aldermen to certify ward indebtedness.

SECTION 4. The alderman of any ward shall certify to the council any debts contracted by such ward for the current year, and thereupon the said council shall (if such debt be a proper claim against said ward) allow such debt, and direct the mayor and clerk to issue to the proper person orders of the city to the amount of the debt allowed: *provided*, that said council shall in no case allow any such debt, if such allowance will cause the whole amount of orders issued to meet the indebtedness of such ward, to exceed the amount of tax which may be levied and collected under the provisions of this chapter, to meet the expenses of the current year, assuming as a basis the tax-list of such year, if then made out, and if not, then the tax-list of the preceeding [preceeding] year.

Proviso.

Ward debt not to exceed tax, &c.

SECTION 5. No alderman of any ward shall contract debts against such ward, in any one year, to an amount greater than the amount of tax which, under the provisions of this chapter, may be levied in such ward to meet the current expenses of the year. And if any alderman shall so contract debts to a greater amount than such tax, neither such ward nor the city shall be liable for the same, but the alderman so contracting shall be liable therefor, as if the debt had originally been contracted by such alderman personally: *provided*, that no alderman shall be held liable as aforesaid, without proof of his assent, as alderman, to the contracting of the liability or debt by the ward.

Proviso.

Verification of accounts.

SECTION 6. No account shall be allowed by the common council, unless the same is verified by the owner thereof, or some person in his behalf, which verification shall be substantially as follows: "I, _____, being duly sworn, depose and say, the above account is just and true, and the same has not been paid or any part thereof, and that the same accrued by the order of _____."

"Subscribed and sworn to before me, this — day of _____, A. D. _____."

Accounts to be presented within one year.

SECTION 7. All accounts accruing against the city of Appleton, shall be presented for allowance to the

common council within one year from the time the same accrued, and if the same is not so presented within one year, the same shall not be allowed by the common council or collected in any court.

SECTION 8. The assessor elected by virtue of this act shall, in all things pertaining to his office, so far as practicable, be governed by the same laws as assessors in towns, except as soon as he has completed his assessment rolls, [roll,] he shall return it to the city clerk.

Assessor.

SECTION 9. It shall be the duty of the clerk, annually upon the receipt of the assessment roll, to lay the same before the common council for their consideration; and the said common council shall be a board of equalisers, and, if they deem it necessary, may make such amendments, corrections or alterations as will produce an equality of assessment, agreeable [agreeably] to the true or comparative value of or between the several lands and portions of property; and when so equalized, the common council may at any time thereafter proceed to levy upon the whole amount of such assessment, as corrected and equalized, such a per centage as a majority of the board shall be deemed [shall deem] necessary for all corporation purposes for the year in which it was made, under the restriction contained in this act.

Assessment roll—equalization.

SECTION 10. The mayor and city clerk with [the aldermen of each ward] and the assessor, shall constitute the city board of equalization, and shall meet at the office of the common council on the first Monday of July, each and every year, at nine o'clock in the forenoon, and shall proceed in all respects as town boards are required to proceed, so far as the same are applicable, reviewing, correcting and equalizing the assessment rolls of the several wards in the city, in the order of their numbers. The mayor shall be president of the board of equalization, and the city clerk the clerk thereof.

Board of equalization.

SECTION 11. All changes of assessment rolls by the board of equalization, shall be duly recorded by the city clerk.

Changes in assessment roll.

SECTION 12. 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, and upon all personal property of any person or body politic, assessed for personal taxes, from the delivery of the warrant for the collection thereof until

Taxes a lien on lands.

such tax shall be paid; and no sale or transfer of such real or personal estate shall effect [affect] said lien. Any personal property belonging to the person taxed, may be taken and sold for the payment of taxes upon personal property.

Tax-list to be
copied.

SECTION 13. As soon as said tax shall be levied, the city clerk shall cause the same to be copied in a book provided for that purpose, setting opposite to each tract of land, and to each person named, under proper column, such sum or sums as may be levied upon such lot or against such person. The said copy shall be designated as the "tax-list," and to it shall be appended a warrant signed by the mayor and clerk, and sealed with the corporate seal of said city, directed to the treasurer, requiring and commanding him to collect the taxes and assessments in said list specified, in the manner prescribed by this act.

Treasurer's war-
rant.

To be certified.
&c.

SECTION 14. Such tax-list, before being delivered to the treasurer, shall be compared by the clerk with the assessment roll as confirmed. To it he shall append his certificate that the same has been so compared by him, and that the said assessment roll, and the whole thereof, has been copied into such tax-list; and the said tax-list when so certified, shall be *prima facie* evidence in any court that the lands and persons therein named were subject to taxation, and that the assessment was just and equal.

Collection of
taxes.

SECTION 15. 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 at the same time and in the same manner as is required by law of the town treasurers to collect taxes; and all unpaid taxes and assessments shall, in like manner, be returned to and collected by the county treasurer; but the five per cent. included in said return, as collection fees, shall, when collected, be paid over to the city treasurer, and the said city treasurer shall place the same, when so paid, in the general fund of the city, for the benefit of the city. The city treasurer shall be entitled to receive, charge and collect, as fees for the collection of taxes and assessments, two per cent. upon all taxes and assessments collected by or paid to him prior to the

Pen.

first day of January, in each year, and five per cent. upon all taxes and assessments paid to or collected by him after the said first day of January and before his return to the county treasurer. The city treasurer shall, upon the receipt of the tax-list, publish a notice in the official paper of the city, (if any there be, if not, then in some paper of the city, if there is any published in the city,) specifying that all taxes and assessments, whether upon real or personal property in said tax-list, shall be paid on or before the last day of December, of said year, and that all taxes and assessments not paid by that day will be collected by the seizure and sale of the goods and chattles [chattels] of the person, company or corporation charged with such taxes and assessments; and the publication of such notice shall be deemed and taken to be a demand, and failure to pay the taxes and assessments within the time limited in such notice, shall be deemed a refusal to pay the same.

Notice to be published—what to specify.

SECTION 16. The city treasurer 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 whatsoever; and when the amount thereof shall reach the sum of three hundred dollars, all sums by him received over and above that amount shall be paid by him into the general fund of said city, for the benefit of the city; and such books shall at all times be open for inspection by the mayor or common council, or to any committee appointed by the common council; and the said city treasurer, when required by the common council, shall make a report, under oath, of all the fees by him received as such city treasurer.

Record of receipts.

SECTION 17. If at any sale of personal estate for taxes or assessments, no bids shall be made for any goods and chattels, the same shall be struck off to the city, and thereupon the city shall receive, in the [its] corporate name, a certificate for the sale thereof, and shall be vested with the same rights as other purchasers. If the city shall become the purchaser of (*the*) personal property by virtue of this chapter, the treasurer shall have the power to sell the same at public sale.

Sales to the city for taxes.

SECTION 18. If it shall appear to the assessors that any lot or parcel of land was omitted in the assessment roll of either or both of the two preceding years,

Tax on lands omitted.

and that the same was then liable to taxation, they shall, in addition to the assessment for 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 taxes 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 reassessed or relieved, [relieved,] shall be and continue a lien upon said lot or tract, and shall be collected as other taxes and assessments are collected under this act.

Reassessment.

Bonds—amount
of taxes—liability.

SECTION 19. The common council of said city shall not have power to issue any bonds or other evidences of debt payable at a day subsequent to the date of the issue thereof, except in cases specially authorized by law, nor shall the common council issue in any one year, orders upon the city treasurer to an amount greater than the amount of taxes which may be levied under the provisions of this act; and in case a greater amount of orders shall be issued than is herein provided, the members of said common council shall be personally liable therefor, and the amount of such excess may be collected of them, or any of them, by any person holding such orders, in any court of competent jurisdiction: *provided*, that no member of said council shall be held liable as aforesaid, without proof of his assent to the issue of such excess or [of] orders.

SECTION 20. Whenever the taxes either upon personal or real property shall not be paid by the fifteenth day of January, of any year, the treasurer may issue his warrant, directed to the city marshal, commanding him to collect such unpaid taxes; and for such purpose the city marshal shall have all the powers and be subject to the same liabilities, and be entitled to the same compensation, as is now provided by the charter of said city; and the said warrant, when so issued, shall be returnable before the expiration of the time allowed by law to the said treasurer for the collection of said taxes.

When warrant may issue to marshal

SECTION 21. All the direction [directions] hereby given for the assessing of lands and the levying and collection of taxes and assessments, shall be deemed only directory, and no error or informality in the proceedings of any of the officers entrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment.

Errors shall not vitiate, &c.

SECTION 22. No person shall be permitted to institute any proceedings to set aside any assessment or special tax hereafter levied or assessed upon any lot or tract of land, or to set aside or to set up or interpose any objections to the title derived by virtue of any deed executed in consequence of the non-payment of such taxes and of the sale of the premises therefor, unless such person shall first pay or tender to the proper party, or deposit for his use, with the treasurer, the amount of all state, county and city taxes that may remain unpaid upon such lot or tract, together with the interest and charges thereon.

Setting aside of assessments.

SECTION 23. Before the annual meeting of the board of supervisors of the county of Outagamie, in the fall, it shall be the duty of the city clerk to cause a copy of the assessment roll of said city, for such year, to be transmitted to the clerk of the board of supervisors, who shall lay the same before the board of supervisors at their meeting.

Clerk to lay assessment roll before county board.

SECTION 24. The board of supervisors shall have the right of equalizing the assessment rolls of the towns in said county and of said city, as provided by law; but in such equalization shall consider the assessment roll of said city as an entire roll, and shall not change the relative valuation of the different wards.

Board not to change relative valuation of the wards.

May levy tax.

SECTION 25. The said board of supervisors may levy a tax, as now provided by law, but shall therein proceed without regard to the division [division] of the city into wards, and shall cause the amount of taxes to be levied and the purposes to be certified to the city clerk, in the manner provided by the general laws of this state; and the said clerk shall make out a tax-list for that purpose, separate [separate] from the tax-list for city purposes, and shall deliver the same to the city treasurer, as provided by law.

Treasurer's duty.

SECTION 26. The treasurer of the city in collecting such tax and making his return to the county treasurer, and in all other respects, shall conform to the general laws of the state, except that the return to the county treasurer shall be for the city and not for the wards.

Collection of taxes on personal property.

SECTION 27. In case the city treasurer is unable to collect any tax assessed upon any personal property, and payable by any person named in this tax-list, he shall proceed in all things according to chapter 18 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 is provided by said chapter 18, and as is prescribed by chapter 198 of the general laws of 1860, and any act that may be hereafter passed amendatory to said acts, or in addition thereto.

CHAPTER SIX.

OPENING OF STREETS AND ALLEYS, ETC.

Laying out public grounds, streets, &c.

SECTION 1. The common council shall have power to lay out public squares, grounds, streets and alleys, and to widen the same, as follows: Whenever ten or more freeholders, residing in any ward, shall, by petition, represent to the common council that it is necessary to take certain lands within the ward where such petitioners may reside, for public use, for the purpose of laying out public squares, grounds, streets or alleys, or the enlarging or widening [widening] the same, the courses and distances, metes and bounds, of the lands proposed to be taken, together with the names and residences of the owners of such premises, if the same shall be known to the petitioners, to be set [set] forth in each [such] petition, the common council shall thereupon cause notice of such

application to be given to the occupant or occupants of such lands, if any there be, or if any portion of said lands shall not be in actual occupation of any person, then the common council shall cause such notice, describing, as near as may be, the premises proposed to be taken, to be published in the official paper or papers four weeks, at least once in each week.

SECTION 2. Such notice shall state that upon a day therein to be named, not less than ten days from the service of such notice or the expiration of such publication, as the case may be, application will be made to the county judge, or a court commissioner for the county of Outagamie, for the appointment of twelve jurors to view said premises, and to determine whether it will be necessary to take the same for the purposes specified in said petition, and to determine the amount of damages to be paid to the owner or owners of the property determined to be taken, and also to ascertain and determine what lands will be benefitted [benefited] by such taking, and to assess such damages upon the real estate benefitted, in proportion to the benefits resulting thereto.

What notice to state.

SECTION 3. Upon the presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said judge or court commissioner shall thereupon appoint twelve reputable freeholders, residents of said city, but not residents of the ward in which said premises may lie, nor interested in the result of such application. The said judge or court commissioner shall thereupon issue his precept, directed to said jurors, requiring them, within ten days, to view the premises to be specified in said precept, and to make a return under their hands to the common council, whether in their judgment it is necessary to take said premises for the purpose specified in said application, and also to make return of the amount of damages to be paid to the owner or owners, respectively, of the property to be taken, and of the amount assessed upon the real estate benefitted, [benefited,] in proportion to the benefit resulting thereto.

Precept to jury.

SECTION 4. The city marshal shall serve this precept immediately on the jurors therein named, by reading the same to every one of them that can be found, and immediately after such service, he shall return the said precept to the judge or court commissioner who issued the same, together with his doings thereon.

Service of precept.

Substitution.

SECTION 5. If any of the jurors so appointed cannot be found, or shall be disqualified from acting, or shall refuse to act, the judge or court commissioner shall appoint others in their places, and a memorandum of such substitution shall be endorsed on the precept.

Oath to jurors.

SECTION 6. The said judge or court commissioner shall thereupon administer an oath to said jurors, that they are freeholders of said city, and not interested in the premises proposed to be taken, and that they will faithfully and impartially discharge the trusts reposed in them.

Jurors to view premises.

SECTION 7. The said jurors shall, at such time as they shall agree upon, proceed in a body to view the premises in question, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of the jurors; and either of the jurors shall be authorized to administer the necessary oaths to the witnesses. After viewing the premises in question and hearing such testimony as may [be] offered, the jurors shall make a report of their proceedings, which shall be signed by them, respectively, and which shall state whether, in their (*their*) judgment, it is necessary to take the premises in question for the public use; and in case they find it is necessary to take said premises, they shall further report the assessment and appraisal made by them, pursuant to the provisions of this charter, which said report, testimony and precept shall be returned to the common council within the time limited in said precept.

To make report.

To strike a balance.

SECTION 8. If the damage to any person be greater than the benefits received, or the benefit [benefit] be greater than the damages, in either case the jurors shall strike a balance and carry the difference [difference] forward to another column, [column,] so that the assessment will show what amount is to be received or paid by such owner or owners, respectively, and the difference [difference] only shall, in any case, be collectable of them or payable to them.

Jurors' award in certain cases.

SECTION 9. If the lands or buildings belong to different persons, or if the land be subject to lease, judgment [judgment] or mortgage, or if there be any estate in it less than an estate in fee, the injury done to such person or interests, respectively, may be awarded to them by the jurors, less the benefits resulting to them, respectively, from the proposed improvements.

SECTION 10. Any person whose property is taken, or against whom assessment is made, may, within ten days from the return of the jurors to the common council, appeal from said assessment of damages or benefits to the circuit court of Outagamie county, where such appeal shall be tried by the court and jury, as in ordinary cases. The common council shall have the same right of appeal. Such appeal and all proceedings thereon shall be, as far as practicable, in accordance with the law regulating appeals from justices' courts.

Appeal

SECTION 11. The land required to be taken for the purposes mentioned in this act, shall not be appropriated until the damages awarded therefor to the owner thereof shall be paid or tendered to the owner or his agent, or in case the said owner or agent cannot be found or is unknown, deposited to his or their credit with the clerk of the circuit court of Outagamie county; and then, and not before, such lands may be taken and appropriated for the purposes required, and the same shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds heretofore opened or laid out.

Lands not to be taken until damages are tendered, &c.

SECTION 12. The damages assessed shall be paid or tendered, or deposited as herein required, within one year from the confirmation of such assessment and report, and if not so paid, tendered or deposited, all the proceedings in any such case shall be void. The benefits so assessed, from the confirmation of said report, shall become and remain a lien upon the premises so determined by the jurors to be benefitted [benefited] by the opening or widening of such street, alley or public ground.

Damages—when paid, &c.

Lien.

SECTION 13. It shall be lawful for any person to pay or tender, or deposit, as herein required, at any time within one year from the confirmation of such assessment and report, the damages assessed in any such case; and whenever proper vouchers and evidence are filed with the city clerk that said damages have been so paid, tendered or deposited by any person, it shall be the duty of the common council to enter an order among their proceedings, to take and appropriate such lands for the purpose required, and also to order the collection of the benefits as aforesaid upon the premises so determined by the jurors to be benefitted [benefited] by the opening or widening of such street, alley or public

Filing of vouchers with clerk that damages have been paid, &c.

ground, for the sole use and benefit of the persons who have so paid said damages; the sum [same] to be collected in the same manner as other taxes on real estate are collected by virtue of this act.

Lands under lease.

SECTION 14. When the whole of any lot or tract of land, or other premises, under lease or other contract, shall be taken by virtue of this act, all the covenants, contracts or engagements between landlord and tenant or any other contracting parties, touching the same, or any part thereof, shall, upon the confirmation of such report, respectively, cease and be absolutely discharged.

Ibid.

SECTION 15. When only part of a lot or tract of land or other premises so under lease or other contract, shall be taken for any of the purposes aforesaid, all the covenants, contracts or agreements respecting the same, upon the confirmation of such report, shall be absolutely discharged, as to the part thereof taken, but shall remain valid as to the residue thereof; and the rents, considerations and payments reserved, [reserved,] payable and to be paid for or in respect to the same, shall be so proportioned so that the part thereof justly and equitably [equitably] payable for such residue thereof, and no more, shall be paid or recoverable for, in respect to the same.

Proceedings when owner is a minor.

SECTION 16. When any known owner of lands or tenements affected by any proceedings under this act, shall be an infant, or labor under legal disability, the judge of the circuit court of Outagamie county, or in his absence, the judge of any court of record in said county, may, upon the application of the common council, or such party or his next friend, appoint a guardian for such party, and all notices required by this act shall be served upon such guardian.

Survey and profile.

SECTION 17. Whenever any public ground, street or alley shall be laid out, widened or enlarged under the provisions of this chapter, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk.

CHAPTER SEVEN.

CITY IMPROVEMENTS.

Street commissioner.

SECTION 1. The common council shall, at their first regular meeting after the annual charter election, appoint some suitable person to be street commissioner of

said city, who shall hold his office for one year, and until his successor is appointed and qualified, unless sooner removed for cause by the council. He shall make report, in detail, to the common council, of his acts and doings, whenever required, and at the expiration of each year, before his term of office shall expire, shall submit all his acts and doings, books, records, papers, accounts, receipts and vouchers, to the common council, for final settlement and adjustment.

Report, &c.

SECTION 2. The said street commissioner shall have power to order and contract for the making, grading, repairing and cleaning of streets, alleys, public grounds, reservoirs, gutters and sewers, within said city, and to direct and control the persons employed therein.

May contract, &c.

Wherever the street commissioner shall deem it necessary to construct or repair any side-walk, he shall direct the owner or occupant of any lot adjoining such sidewalk to make or repair the same, at his own proper cost and charge. If such work is not done in the manner and in the time prescribed, the commissioners

Sidewalks.

[commissioner] shall cause the same to be done at the expense of the lots adjoining such sidewalk. The street commissioner shall not have power to make and grade in the several wards of the city any street, alley, public grounds, reservoirs, gutters or sewers, or to construct any sidewalks, unless the same shall have been first duly authorized by ordinance of the common council of said city: *provided*, nothing herein shall be so construed as to prohibit such street commissioner from making or causing to be made all necessary repairs to any sidewalk, street, alley, public grounds, reservoirs, gutter or sewer.

Grade, &c., must be authorized by ordinance.

Hereafter, no special improvements shall be ordered by the common council exceeding in estimated cost the sum of two hundred dollars, unless the owners of more than one-half of the land to be taxed for such improvement, shall petition, in writing, for the same, or unless the same shall be ordered by a vote of three-fourths of all the aldermen elect. If the common council order any special improvement to be made, or pass any ordinance or resolution requiring any special improvement to be done, the vote therefor of the aldermen shall be taken by yeas and nays, and entered upon the journal of the proceedings of the said council; and no special improvement shall be valid or binding unless said vote be so taken and entered upon the journal.

When special improvements must be petitioned for.

Expense of surveying—how paid.

SECTION 3. The cost and expense of surveying streets, alleys, sidewalks, sewers, and of estimating work thereon, and of constructing and repairing reservoirs [reservoirs] and sewers, shall be chargeable to and payable out of the fund of the proper ward. Opening, grading, graveling, planking or paving streets and alleys to the center thereof, shall be chargeable and payable by the lot [lots] fronting on such street or alley. Sewers may be ordered by the street commissioners, [commissioner,] and built at the expense of the lots or parcels of land benefitted [benefitted] thereby, which shall be apportioned among said lots or parcels of land by the street commissioner, with the assistance of the city surveyor: *provided, however, that where sewers are constructed through alleys, no lots shall be assessed therefor, except those situated in the block or blocks through which said sewers may be constructed: and where sewers are constructed through streets, no lot shall be assessed therefor except those situated in the blocks fronting on such streets; and provided, further, that in all cases where improvements or work of any kind are charged by virtue of this section upon lots benefitted, all such improvements across streets, alleys and public grounds shall be made and paid for out of the fund of the proper ward, in proportion to the width of the street, alley or public ground.*

Provision.

Estimate of expenses to be filed.

SECTION 4. Whenever the commissioner shall determine to make any public improvement, as authorized by sections three and four [two and three] of this chapter, he shall cause to be made an estimate of the whole expenses [expenses] thereof, and of the proportion to be assessed and charged to each lot, and in case of grading streets, alleys or sidewalks, of the number of cubic yards to be filled in or to be excavated in front of each lot; and such estimate shall be filed with the city clerk for the inspection of the parties interested. The street commissioner shall give notice personally or by advertisement in the official paper or papers published [published] in the city of Appleton, to the owners or occupants of the lots or parcels of land fronting on any streets, alley or sidewalk ordered to be graded, graveled, planked or paved, requiring them to do the work mentioned in such notice within a reasonable time therein to be specified; and if the said work shall not be done within such time, the said com-

Publication of notice to lot owners.

missioner shall enter into contract for the doing thereof.

SECTION 5. Whenever the general interest of the city or ward requires deep cutting or extraordinary filling of any street, and the owners of the lots or lands fronting on such deep cutting or filling shall deem themselves aggrieved thereby, and shall, within fifteen days after the service or first publication of the notice requiring the improvement to be made, represent to the commissioner, in writing, that the expense of such excavation or filling will exceed the benefit the same will be to the property assessed therefor, the street commissioner shall report the same to the common council, who, or a majority of them, shall examine the premises; and if in their opinion the costs of such work shall exceed the benefit derived therefrom, it shall be their duty to determine in writing, subscribed by them, and preserved with the records of said city, what portion of such work shall be chargeable to such lots or parcels of land, and how much or what portion shall be chargeable to the ward fund; and such proportion as shall be reported as properly chargeable to the lots or parcels aforesaid, shall be assessed upon the same, and levied and collected as other taxes and assessments, and the remainder shall be paid out of the war fund: *provided, however*, any party feeling himself aggrieved by the determination of the common council, may, within ten days from the date thereof, appeal to the circuit court, as hereinbefore provided.

Excavation, &c.

Remonstrance.

Council to examine premises, &c.

Appeal.

SECTION 6. The street commissioner shall give notice to all owners or occupants of lots which may be deemed injurious to health, by reason of stagnant water remaining thereon, to abate such nuisance, by draining or filling such lots, within a reasonable time therein to be specified; and if such nuisance shall not be abated or removed within the time so specified, the street commissioner shall cause the same to be abated or removed, at the expense of the property upon which the same may exist.

Notice to owners to abate nuisance.

SECTION 7. After the completion and performance of any contracts entered into by the street commissioners [commissioner] for work chargeable to lots or lands, by virtue of this act, he shall give to the contractor or contractors a certificate, under his hand, stating therein the amount of work done by such contractor, the nature

Commissioners' certificates for work done.

thereof, and the description of the lot or parcel of land upon which the same is chargeable, which said certificate may be transferred by endorsement thereon; and if the amount thereof shall not be paid before the time of making out the annual assessment roll, the same shall be assessed upon the said lots or parcels of land, respectively, and collected for the use and benefit of the holder of such certificate, as other taxes on real estate are collected by virtue of this act; and if the notice to do the work required shall have been given as herein provided, no informality or errors in the proceedings shall vitiate such assessment: *provided*, that in no event where work is ordered to be done at the expense of any lot or parcel of land, shall either the city or any ward be held responsible for the payment thereof.

When city or ward not responsible.

Cleaning and repairing streets, &c.

SECTION 8. The street commissioner is hereby authorized to require, by such general regulations as he may chose to adopt, and as the common council may approve, the owners or occupants of lots to cleanse [cleanse] and repair the sidewalks, streets and alleys, and to employ any person or persons whose duty it shall be, to make repairs and cleanse such streets, alleys and sidewalks. Whenever such regulations shall not have been complied with, at some period prior to the time of the delivery of the tax-list to the treasurer, under the charter, it shall be the duty of the street commissioner to make a report to the city clerk of the amount of tax properly chargeable against each lot for work done under this section, for any period not exceeding one year prior to such report, and such amount shall be a lien upon such lots, and be levied thereon as a special tax, with all the legal consequences both as to collection of taxes and sale of the lots, prescribed in this act for special taxes.

CHAPTER NINE.

FIRE DEPARTMENT.

Fire limits.

SECTION 1. The common council, for the purpose of guarding against the calamities of fire, shall have power, and it shall be their duty, to prescribe the limits within which wooden buildings, or buildings of other materials that shall not be considered fire-proof, shall not be erected, placed or repaired, and to direct that all and any buildings 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, where the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damage.

Fireproof buildings.

SECTION 2. The common council shall have power to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove-pipes, ovens, boilers and apparatus used in and about any building, and to cause the same to be removed or placed in a safe and secure condition when considered dangerous; to prevent the deposit of ashes in unsafe places; to require the inhabitants to provide as many fire-buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire; to regulate and prevent the carrying on of manufactories dangerous in causing and promoting fires; to regulate and prevent the use of fireworks and firearms; to compel the owners and occupants of buildings to have scuttles in the roofs, and stairs or ladders leading to the same, and also to provide wells or cisterns on their premises; to authorize the mayor, aldermen, fire-wardens and other officers of the city to keep away from the vicinity of any 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.

Council may prevent the construction of dangerous buildings, &c.

SECTION 3. The common council shall have full power to purchase fire-engines and other fire apparatus, and to authorize the formation of fire-engine, and hook and ladder, 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 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 their own officers and form their own by-laws, not inconsistent [inconsistent] with the laws of this state or the ordinances or regulations of said city, and shall be formed only by voluntary enlistments. Every member of each company hereby authorized to be formed, shall be exempt from highway

May purchase fire-engines.

Fire companies.

Exemption.

work and poll-tax, and from military duty during the continuance of such membership; and any person having served for the term of seven years in either of said companies, shall be forever thereafter exempt from poll-tax and from military duty, except [except] in case of insurrection or invasion.

First meeting of companies.

SECTION 4. There shall be a meeting of the members of said companies, on the third Monday of April, in each year, at such place as may be designated by the chief engineer, when they may nominate and recommend to the common council, for appointment, one chief engineer and three assistant engineers, and the common council shall thereupon confirm or reject said nominations; and the person [persons] so appointed shall perform such duties as the common council may prescribe.

Fire-wardens.

SECTION 5. At the same time, the members of said companies shall nominate, and the common council shall appoint or reject the same, four fire-wardens, who shall perform such duties as the common council shall prescribe, and they may at any time enter into any house, store, barn or other building or enclosure, for the purpose of inspecting the same.

Fines.

SECTION 6. One-half of the net proceeds of all fines and penalties recovered for the breach of any ordinance, by-law or regulation made in pursuance of this chapter, shall be paid to the fire department, if organized; if not organized, then the said proceeds shall be paid into the poor fund.

Penalty for refusing to work at fires.

SECTION 7. Whenever any person shall refuse to obey any lawful order of any engineer, fire-warden, mayor or alderman 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 some safe place until such fire shall be extinguished; and in the same manner, such officers 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 obey any such lawful order, or 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 fifteen dollars.

Sack company—their duties.

SECTION 8. The common council shall have power to organize a sack company, or continue in force any

such company now organized, which shall be known as sack company No. 1, to consist of not more than twenty members. Such company shall constitute a part of the fire department, and at fires shall be subject to the controll [control] of the chief engineers. The members of said company, either collectively or individually, are hereby authorized and empowered to act as a special police in and for the city of Appleton, and are hereby vested with all the powers and authority which now is [are] or may hereafter be vested in any poliece [police] officer of said city, and shall be entitled to all the rights and immunities of members of the fire department. At fires, they shall take charge of all property which may be exposed or endangered, and shall, as far as it may be in their power, preserve the same from injury or destruction. Said company may, from time to time, adopt such by-laws and regulations as they may deem necessary, not inconsistent with the laws of this state. The members of said company shall not be entitled to any pay or compensation for services rendered in their official capacity. They shall, in case of riot or disturbance of the peace, have free 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. The members of said company shall severally take an oath or affirmation that they will faithfully discharge the duties of their said office; and when any member of said company shall cease to be a member thereof, by resignation, expulsion or otherwise, a notice thereof shall be given to the city clerk, and they shall preserve a record of all the members of said company.

No compensa
tion.

Oath.

CHAPTER TEN.

SUPPORT OF POOR.

SECTION 1. The laws of this state for the relief and support of the poor in towns, shall apply to said city, and the common council may annually levey [levy] a tax, not exceeding one thousand dollars, to comply with the provisions of such law; such tax to be levied and collected in the same manner as annual city taxes. And the common council shall appoint one or more of their number to act as overseers of the poor of the city, who shall perform all the duties of overseer of poor in towns.

Poor tax.

CHAPTER ELEVEN.

MISCELLANEOUS PROVISIONS.

All work to be
let by contract.

SECTION 1. All work for the city, or either of the wards, when the amount exceeds fifty dollars, shall be let by contract to the lowest bidder, and due notice shall be given of the time and place of letting such contract.

Appropriations.

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

Judgments—
how remitted.

SECTION 3. No penalty or judgment recovered in favor of the city, shall be remitted or discharged, except by a majority of the aldermen elect.

Actions—how
brought.

SECTION 4. 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 clause of this act, or by-law or ordinance, under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it.

Prosecutions.

SECTION 5. In all (*the*) prosecutions for any violation of any of the provisions of this act, or any by-law or ordinance, the first process shall be a summons, unless oath be made for a warrant, as in other cases.

Summons.

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

“The city of Appleton
 against
_____ } In justice court.

“The plaintiff complains against the defendant, in an action of debt, for that the defendant did, on the _____ day of _____, 18—, violate section _____ of an ordinance (or by-law, describing it by its title,) which said _____ is now in force. By reason of such violation, an action hath occurred [accrued] to the city of Appleton, to recover of the defendant the sum of _____ dollars debt. Wherefore, the plaintiff demands judgment against the defendant for the sum aforesaid, besides the costs of this action.”

SECTION 7. In all cases where the oath is made for ^{Complaint.} a warrant, the complaint shall be made on the oath of the complainant, and no other affidavit shall be necessary, which complaint last above named, may be substantially in the following form :

“ The city of Appleton }
 against } In justice court.
 _____ }
 _____ }

State of Wisconsin, }
 Outagamie county, } ss.

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

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

It shall be sufficient to give the number of the section or sections, and the title of the ordinance or by-laws, or of the law violated, in the foregoing forms of the complaints, and said complaint may be sworn to before any officer authorized to administer oaths. Upon the filing of such complaint with the justice of the ^{Warrant.} peace, (*of the peace*,) he shall issue a warrant thereon, which may be substantially as follows :

“ State of Wisconsin, }
 Outagamie county, } ss.
 City of Appleton, }
 _____ }

“ To the sheriff or any constable of said county, or to the marshal of the city of Appleton, greeting :

“ Whereas, _____ has this day complained to me, in writing, on oath, that _____ did, on the _____ day of _____, 18—, violate section _____ (or sections _____) of ordinance, (by-law, regulation or law, as the case may be, describing it by its title,) which said _____ is now in full force and effect, as the said complainant verily believes : Therefore, in the name of the state of Wisconsin, you are hereby commanded to arrest the body of said _____, and him bring

before me forthwith, to answer to the city of Appleton, on the complaint aforesaid.

“Given under my hand the — day of —, 18—.
“ — — — —, justice of the peace.”

Proceedings be-
fore justice

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

Printed copy
deemed evidence,
&c.

SECTION 8. A printed copy of an ordinance, by-law or resolutions, passed by the common council and published in a newspaper or in pamphlet or book form, shall be *prima facie* evidence of its due passage and publication, and shall be received in evidence on the trial of all cases, cognizable before any court in this state.

Witnesses and
jurors.

SECTION 9. Witnesses and jurors shall attend before the justice of the peace in all city and criminal suits, without the payment of fees in advance, or a tender thereof, upon process of the court duly served, and in default thereof, their attendance may be compelled by attachment.

Finding, and
judgment.

SECTION 10. In city prosecutions, the finding of the court or jury shall be either guilty or not guilty. If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture contained in the ordinance, by-laws or resolution, for the violation of which the person or persons shall have been adjudged guilty, and for the costs of suit; but if not guilty, the costs shall be taxed against the city. Upon conviction and the non-payment of such judgment, the court may forthwith issue an execution, as in cases of tort, and shall determine and enter upon the docket the length of time the defendant shall be imprisoned, which in no case shall exceed six months, and also insert such time in the commitment or execution. Such execution may be in the following form:

Execution.

“ State of Wisconsin, }
 Outagamie county, } ss.
 City of Appleton, }

“ To the sheriff or any constable of the county of Outagamie, or to the city marshal, and to the keeper of the common jail in said county, greeting :

“ Whereas, the city of Appleton, on the — day of —, 18—, recovered a judgment before — —, the justice of the peace of said city, against — —, for the sum of — dollars, together with — dollars cost of suit, for the violation of an ordinance, (by-law, resolution or law, as the case may be :) These are, therefore, in the name of the state of Wisconsin, to command you to levy distress of the goods and chattles [chattels] of said — —, except such as the law exempts, and make sale thereof, according to law in such case made and provided, 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, take the body of the said — —, and him convey and deliver to the keeper of the common jail in Outagamie county ; and said keeper is hereby commanded to receive and keep in custody in said jail, the said — —, for the term of — —, unless said judgment, together with all costs and fees, are sooner paid, or he be discharged by due course of law.

“ Given under my hand, this — day of —, 18—. “ — —, justice of the peace.”

SECTION 11. No person shall be an incompetent [incompetent] judge or justice, witness or juror, by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest. Competency of judge, &c.

SECTION 12. All ordinances, regulations or resolutions now in force in the city of Appleton, and not inconsistent [inconsistent] with this act, shall remain in force under this act until altered, modified or repealed by the common council, after this act shall take effect. Ordinances now in force.

SECTION 13. All actions, rights, fines, penalties and forfeitures, in suit or otherwise, which have accumulated under the several acts consolidated herein, shall be vested in and prosecuted by the corporation hereby created. Actions, &c., vested in corporation.

Failure to hold election, not a loss of franchise.

SECTION 14. If any election by the people or common council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize, as herein provided, it shall not be considered reason for arresting, suspending or absolving said corporation, but such election or organization may be had at any subsequent day, by order of the common council; and if any of the duties enjoined by this act, or the ordinance or by-laws of the city, to be done by any officer at any specified time, and the same are not then done or performed, the common council may appoint another time at which the said acts may be done and performed.

Jurisdiction of city over bridges, &c.

SECTION 15. All that part of Fox river within the limits of said city, shall be kept under the exclusive jurisdiction of the said city and its common council, and all bridges over the said river, within the limits aforesaid, shall be under its jurisdiction; and the mayor and common council of said city are hereby fully empowered to purchase bridges now existing within said city limits, and also to build and construct, or cause to be built and constructed, new bridges, at such point or points as they may deem necessary and for the best interest of the city, and to maintain and sup [support] all such bridges which the city may own now or may purchase or build hereafter at the expense of said city.

New bridges.

SECTION 16. Whenever the common council shall deem it necessary and for the best interests of said city to build one or more new bridge or bridges over Fox river, or elsewhere within said city limits, they may, for the purpose of defraying the expences [expenses] of the first construction of such bridge or bridges, levy a special tax upon all the taxable property of said city; such tax to be levied and collected in the same manner as is provided for the levying and collecting of the annual city taxes in this act: *provided*, that no such tax shall be levied unless the question be submitted to the qualified electors of the city, nor unless a majority of all the qualified electors voting on such question shall vote in favor of levying and collecting the same, as proposed by the common council. Notices of the time and place when and where such election will be held, shall be published in the official paper or papers for three successive weeks, at least

Special tax.

To be submitted to a vote.

Notice of election.

once in each week. If the construction [of] one or more new bridg [bridge] or bridges is so determined, it shall be the duty of the street commissioner to cause all necessary grading to be done to render the road thereto passable.

SECTION 17. The general laws for the preservation of bridges, and the punishment by such (*by such*) laws provided for the willful and malicious injuries done thereto, are hereby extended to and shall include all of said bridges, and shall apply to any wilful [willful] or malicious damage which may be done to either of them by any person or persons whatever; and the common council may, from time to time, make such by-laws or ordinances as they may deem necessary for the preservation of such bridges, and enforce the same by adequate penalties. In case of any damage done to any of said bridges, by any vessel or water-crafts, or by the master or any person in command thereof, such vessel or water-craft may be proceeded against under the law to provide for the collection of demands against boats and vessels.

Laws applicable to the protection of bridges.

SECTION 18. When any suit or action shall be commenced against said city, (*said city*), the services thereof may be made by leaving a copy of the process, by the proper officers, with the mayor, and it shall be the duty of the mayor forthwith to inform the common council thereof or take such other proceedings as by ordinances or resolutions of said council may be in such case provided.

Actions against the city.

SECTION 19. No real or personal property of any inhabitant of said city, or of any individual or corporation, shall be levied on and sold by virtue of any execution issued to satisfy [satisfy] or collect any debet, [debt,] obligation or contract of said city.

Exemption.

SECTION 20. The common council of said city may, at any time, appoint four commissioners, one from each ward, who, with the assistance of the city surveyor, or such other assistant surveyor as the council may appoint, shall 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 shall cause to be established such permanent landmarks as they may deem necessary, and to cause an accurate plat or plats thereof to be made and certified to by the said surveyor and commissioners, which shall

Commissioners to establish line of streets, &c.

be filed in the office of the city clerk, and a copy thereof shall be recorded in the office of the register of deeds of Outagamie county.

Survey to be evidence.

SECTION 21. The survey 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 in controversy, in all courts in this state.

Grade.

SECTION 22. The common council of the said city may, at such time as they may deem proper, establish the grade of all streets, alleys and sidewalks in said city, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the register of deeds of Outagamie county; and should the grade so established be at any time hereafter altered, all damages, costs and charges arising therefrom, shall be paid by the city to the owner of any lot or parcel of land or tenement which may be affected or injured in consequence of the alteration of such grade: *provided*, [provided,] that nothing in this section contained shall be construed so as to prevent the street commissioners of the several wards of the said city from ordering or causing to be done the grading of any street within their ward, to a temporary grade to be established by such street commissioners.

Temporary grade.

City may hold real estate.

SECTION 23. The said city may lease, purchase and hold real or personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

Special taxes.

SECTION 24. Real estat [estate] exempted from taxation by the laws of this state, shall be subject to special taxes, as other real estate under this act.

Not considered as repealing.

SECTION 25. 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.

Subdivision of lots, &c.

SECTION 26. Every individual or company of individuals, or body corporate, owning a lot or tract of land within the corporate limits of the city of Appleton, who may desire to subdivide or plat such lot or tract of land into city lots, shall, in platting the same, cause the streets and alleys in such plat to correspond in

width and general direction with the streets and alleys through the lots and blocks in said city, adjacent to said lot or tract of land so platted; and before recording such plat, as required by law, it shall be the duty of such person or persons making such plat, to submit the same to the common council of said city for approval, and if said plat shall be approved by the common council, it shall be lawful for the party or parties making such plat, to record the same in the manner prescribed by the revised statutes of this state concerning town plats; but except such plat shall be approved by resolution adopted by said common council, a copy of which, duly certified to by the city clerk, shall be affixed to said plat, it shall not be lawful for the register of deeds of Outagamie county to receive such plat for record; and the person or persons neglecting or refusing to comply with the requirements of this act, shall forfeit and pay a sum not less than one hundred dollars, and not more than one thousand dollars, and the register of deeds who shall record such plat without such resolution of the common council thereto attached, approving the same, shall forfeit and pay a sum not less than fifty nor more than one hundred dollars.

Plat to be approved by council.

Penalties.

SECTION 27. All forfeitures and liabilities which may be incurred and arise under and by virtue of this act, shall be prosecuted for and recovered in the name of the city of Appleton, and paid into the city treasury for the use and benefit of said city.

Forfeitures—how prosecuted.

SECTION 28. In all cases when, by the provisions of this act, personal service of any notice is required upon the occupant, owner or agent of any property in said city, it shall be sufficient to deposit such notice, in a prepaid sealed envelop, in the Appleton postoffice, directed to such owner, occupant or agent residing in said city.

Personal notice.

SECTION 29. Hereafter, no special improvements shall be ordered by the common council, exceeding in estimated cost the sum of two hundred dollars, unless the owners of more than one-half of the lands to be taxed for such improvement, shall petition, in writing, for the same, or unless the same shall be ordered by a vote of three-fourths of all the aldermen elect.

Special improvements.

SECTION 30. When the city of Appleton deeds or leases any real estate, or any interest therein, owned by said city, the party of the first part shall be the city

Parties to deeds.

of Appleton, and the person or persons authorized to execute such deed or lease need not be named in the body thereof.

Deeds to lands
belonging to
city.

SECTION 31. The mayor of said city is hereby authorized, when the common council shall, by ordinance or resolution for that purpose, describing the real estate and interest to be conveyed, order 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 said city and countersigned by the city clerk, and sealed with the corporate seal of said city, and duly witnessed and acknowledged, as is provided by law for the execution of deeds and leases.

Copy of ordi-
nance to be at-
tached to and
recorded with
deed.

SECTION 32. When any such deed or lease is so executed, the city clerk shall attach to such deed or lease a true and attested copy of such ordinance or resolution, and the same shall be recorded by the register of deeds with the said deed or lease; and such copy so attached and recorded shall be, in all courts of this state, *prima facie* evidence of the authority of such mayor to make and execute such deed or lease.

REPEALING CLAUSE.

Repeal.

SECTION 33. An act entitled "an act to incorporate the city of Appleton," approved March 29th, 1857, and the several acts amendatory thereof, and all acts or parts of acts inconsistent and conflicting with the provisions of this act, are hereby repealed; but the repeal of said acts and parts of acts shall not, in any manner, affect, injure or invalidate any contracts, acts, suits, claims or demands that may have been entered into, performed, commenced, or that may exist under or by virtue or in pursuance of the said acts or any of them, but the same shall exist and be in force and carried out as fully and effectually, to all intents and purposes, as if this act had not been passed. And all ordinances, resolutions, regulations, rules, by-laws and orders of the common council of said city, or parts thereof, not repealed, suspended or made void by this act, shall continue and remain of the same force and effect as if this act had not been passed, until altered, amended, repealed or suspended by the common council in pursuance of this act.

To remain in
force.

SECTION 34. This act shall take effect and be in force from and after its passage.

Approved March 27, 1863.

CHAPTER 125.

[Published April 1, 1863.]

AN ACT to legalize a special town meeting held in the town of Brookfield, in the county of Waukesha, on the eighteenth day of October, A. D. 1862.

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

SECTION 1. The special town meeting held in the town of Brookfield, in the county of Waukesha, on the eighteenth day of October, A. D. 1862, for the purpose of levying a tax to pay bounties to volunteers in the state or United States service, is hereby declared legal to all intents and purposes; and all acts of said special town meeting, and the proceedings had by virtue thereof, are hereby declared and made valid in law. Town meeting legalized.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved March 27, 1863.

CHAPTER 126.

[Published April 14, 1863.]

AN ACT to legalize the official acts of John W. Hall and Nicholas Murtice, supervisors of the town of Forest, county of Fond du Lac.

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

SECTION 1. All the official acts and duties performed by John W. Hall and Nicholas Murtice, as supervisors in the town of Forest, and county of Fond du Lac, Acts legalized.