

[No. 43, S.]

[Published March 3, 1883.]

CHAPTER 23.

AN ACT relating to the city of Portage, and amendatory of chapter 132, laws of 1882.

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

Amended.

SECTION 1. Section 58, of chapter 132, laws of 1882, is hereby amended by adding to said section the following: Whenever the boundaries of any street cannot, in the opinion of the council, be definitely ascertained, or are indefinite, uncertain or obscure, the council shall have power to define the boundaries of such street by ordinance, and shall set monuments showing the boundaries of the street as so established, and make a record thereof. At least thirty days before passing any such ordinance, the council shall cause stakes to be set showing the center of such street, as it is proposed to establish the same. If any lot owner shall inform the council in writing, within six months after the passage of an ordinance so establishing the boundaries of any street, that he is wronged thereby, and claims damages, stating the amount thereof, the council may award him such damages as it may deem just and equitable, which determination of the council allowing or disallowing such claim, in whole or in part, may be appealed from, in the manner provided for appeals from damages, awarded for laying out highways, by section 55, of the city charter, and the proceedings on such appeal in the circuit court, shall be such as are provided by said section 55; but in case no such claim shall be presented within six months after the passage of the ordinance, all lot owners on said street shall be deemed to have acquiesced in, and assented to the boundaries of such street, as so established, and thereafter shall not question the same.

Paving of streets.

SECTION 2. Section 65, of said chapter 132, is hereby amended so as to read as follows: Section 65. Whenever the council shall require any street to be paved or macadamized, or any gutter or curbing to be constructed, it shall determine the manner in which the work shall be done, and of what material, and the street commissioner, or such other person or officer as the council may designate to have charge of the work, shall let a contract, subject to the approval of the mayor, for

doing such work. Public notice of the letting of such contract, shall be given by advertisement in the official paper of the city, for at least twenty days, and the contract shall be awarded to some responsible bidder, whose bid shall be deemed most reasonable and proper. The cost of such paving or macadamizing, or of constructing such gutter or curbing, shall be chargeable to the lots fronting on the street; so that each lot or parcel of land shall bear its proportionate amount of the expense of such paving or macadamizing, or of constructing such gutter or curbing, according to its frontage on the street, but the expense of all engineering and grading necessary to be done, to prepare a street for paving or macadamizing, or the construction of a gutter, and all cost of supervision or inspection, shall be payable by the city; provided, however, that by vote of two-thirds of all the members of the council, any of the work provided for by this section, may be placed under the charge of a superintendent, who shall employ all the labor, and purchase all the material needed for such work, and keep an accurate account of all expenditures incurred in the construction of the work, and the cost shall be apportioned to each lot according to its frontage on the street, by such superintendent, and be certified by him to the city clerk, who shall call upon each property owner, or his agent, at least once, if a resident of the city, for his portion of such special assessment, and if not paid the amount shall be carried into the tax roll of the same year, as a special assessment against each such delinquent lot. In case any contractor shall fail to perform his contract, the council may declare the same forfeited, and the work may be in like manner, by vote of the council, placed under the charge of a superintendent, and be completed by him at the expense of the lots; and if, in the performance of such work by a superintendent, the cost shall exceed the contract price, the amount of such excess, and all other damages, may be recovered from the contractor in an action at law.

SECTION 3. Section 64, of] said chapter 132, is hereby amended by striking out all after the word "direct," in the twenty-seventh line of said section, and inserting in lieu thereof the following: Such contract shall be executed on the part of the city by the street commissioner, and be approved

Approval of
contract

by the mayor; notice of the time and place of receiving bids, under this section, shall be published for at least ten days in the official paper of the city.

Repair of side-walks.

SECTION 4. Section 72, of said chapter 132, is hereby amended so as to read as follows: Section 72. It shall also be the duty of the street commissioner, whenever, in his opinion, any portion of a sidewalk shall be out of repair, or in a dangerous condition, to serve a written notice on the owner or occupant of the lot in front of which such defective sidewalk shall be, if a resident of said city, to immediately repair the same, and if said owner or occupant shall fail to repair such sidewalk within forty-eight hours, the same may be repaired by the street commissioner at the expense of the lot in front of which such defective sidewalk shall be. Service of such written notice at the residence of the owner or occupant of such lot, upon a member of his family of suitable age and discretion, or with the agent of the owner, shall be deemed service upon such owner or occupant; and in case the owner of such lot is not a resident of the city, or his residence is unknown, and such owner has no agent in the city known to the street commissioner, then it shall be the duty of the street commissioner to forthwith repair the same without notice to the lot owner, at the expense of such lot as hereinbefore provided. The street commissioner shall also have the same powers and duties in relation to removing obstructions from any of the streets in said city, as town boards of supervisors have in removing obstructions from highways. The city shall not be liable to, or for, any damages arising or growing out of any sidewalks, streets, drains, sewers, gutters, ditches or bridge in said city, being in a dangerous or defective condition or out of repair, unless it be shown that previous to the happening of the same, the mayor of the city, street commissioner, or one of the aldermen of the ward in which the same is located, had knowledge thereof, and no knowledge of such condition of the same shall be presumed, unless the defect out of which the same occurred existed three weeks before such damages accrued; provided, however, that nothing herein contained shall be so construed as to mean that knowledge is to be presumed because such three weeks had elapsed.

SECTION 5. Section 140, of said chapter 132, is hereby amended by adding to said section the following: In the making of said plat there shall be an accompanying descriptive list, which shall be recorded in the office of the register of deeds and also in the city clerk's office. Each lot given a number on said plat shall be described in said descriptive list, with sufficient certainty to enable a surveyor to locate the same. Each tract of land which has a separate ownership, known to the mayor and clerk, shall be given a number, and any tract of land may be divided into two or more lots, if deemed advisable in the making of said plat. Amendments may be made to the plat at any time, by the mayor and clerk, by filing with the register of deeds a plat of the amendments, and an accompanying descriptive list, which said descriptive list, amending the plat, shall also be filed with the city clerk, and be recorded both by the register of deeds and the city clerk. The map and descriptive list thus amending the plat shall show in what manner any lot or lots is affected by the amendment. The major portion of any lot which is altered by the amendment shall retain the original number given to the lot, and a new number shall be given to the tract that may be detached. In describing any piece or parcel of land by the assessor in making the assessment roll, or in any deed, it shall not be necessary to refer to any amendments of the plat, but all such assessments or deeds wherein any parcel or tract of land is described as being according to the "assessor's plat," or "assessor's sub-division of lands," shall be construed and held to mean the "assessor's sub-division of lands," with its amendments, as it stood at the date of making such roll, deed or other instrument.

SECTION 6. This act shall take effect and be in force from and after its passage and publication.

Approved March 1, 1883.