

[No. 216, A.]

[Published March 28, 1889.]

## CHAPTER 177.

AN ACT to amend sub-chapter 12, of chapter 164 of the laws of Wisconsin for the year 1885, and relating to sewers and sewerage in the city of Chippewa Falls.

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

Amendment to  
sub-ch. 12, ch.  
164, laws of  
1885.

SECTION 1. Sub-chapter 12, of said chapter 164, of the laws of 1885, entitled, "an act to revise the charter of the city of Chippewa Falls," is hereby amended by striking out of said sub-chapter 12, sections 3 to 11 inclusive, and substituting in place thereof the following: Section 3. On or before the first Monday of March of each year, the board shall present to the council a report of the sewers necessary or advisable to be constructed during the ensuing year. The council shall, as soon as practicable, consider said report; they may approve the same or make such additions or changes as to them may seem best, and to adopt the report as changed or modified. No sewer shall be constructed during the ensuing year, except such as shall have been determined upon in the manner aforesaid, except by a vote of three-fourths of all of the members of the common council. The board shall proceed to construct the sewers determined upon, when, and as ordered to do so by the common council.

Bids for con-  
struction of  
sewer.

SECTION 4. After the common council shall have ordered the construction of any sewer, the board of public works shall advertise for and receive bids to do the work so ordered, having first procured to be carefully prepared and put on file in the office of the board for the examination by and guidance of bidders, plans and specifications describing the particular work to be done and the kinds and qualities of materials to be used as directed by the common council, and shall let the contract to the lowest responsible and reliable bidder. Provided, however, that the board shall have the right to reject all bids and re-advertise for proposals if they believe none of the

bidders are responsible, or if they believe that an agreement has been entered into between bidders to prevent competition; and provided, further, that the contract shall not be binding until the same shall have been approved by the common council and countersigned by the comptroller. (And in case the board shall deem the bids disproportionate to the cost of the work to be done, they may report such fact to the common council, and said council may by ordinance, passed by a three-fourths vote of all members elected, order and direct said board to proceed and construct said sewer, in such manner, not inconsistent with this chapter, as said council may think proper and right).

SECTION 5. Such contract may, at the option of the city, except as herein otherwise provided, require the contractor to receive as payment of so much of the work as has been assessed to the lots opposite to the front of which any sewer shall extend, certificates against such lots respectively, or improvement bonds, and the residue of such contract shall be paid out of the general sewerage tax, to be levied on the real estate and personal property within the sewerage districts, by the common council, on the recommendation of the board of public works.

Contractor,  
how paid.

SECTION 6. After any contract for work under this act, to be paid for in whole or in part by assessment, shall have been entered into (or said board shall have been ordered by said council to construct and perform said work), the board of public works shall make, or cause to be made, an assessment against all of the lots, parts of lots and parcels of land fronting or abutting on the work so contracted (or ordered) to be done on each side of the same for its whole length, and which have not been before so assessed for sewerage purposes, at the rate of one dollar per lineal foot of the whole front of each lot, part of lot or lots, or parcel of land fronting or abutting on either side of said sewer, except corner lots, which shall be assessed therefor as follows: Corner lots not subdivided in ownership, shall be entitled to a deduction in making sub assessment, of one-third of the aggregate of the street lines of such corner lot or corner subdivisions thereof on all the streets in front thereof; such deduction to be made in the

Assessment.

assessment of the longest street line of such corner lots or corner subdivisions thereof, or in case of equal street lines thereof, in the assessment for the second sewer for which they are liable; provided, however, that when the actual cost of any sewer shall be less than two dollars per lineal foot, then in that case, the assessment shall be for the actual cost of such sewer per lineal foot, one-half thereof to be chargeable against the property fronting or abutting thereon on each side thereof. Whenever any lot which, as originally platted, fronts or abuts on any sewer, is subdivided, and the subdivisions thereof are owned by different persons, no subdivisions of such lots not fronting or abutting on said sewer and not owned by the same person who owns the subdivision fronting on said sewer, shall be assessed for the cost of such sewer.

When lot or parcel of land is subdivided.

SECTION 7. Whenever any lot or parcel of land shall be subdivided by sale or any other contract after the assessment of benefits accruing to it by a system of sewerage have been made, and before such system shall have been fully carried out and extended to such lots assessed, and the assessment on such work paid, any party interested may give notice to the board of such subdivision, and in such case or when the said board shall, in any other way become cognizant of such subdivision, they may make an equitable apportionment of the said benefit tax against any lot between the different parcels of it; but if by neglect of the owners of the lot so divided, no such apportionment shall be made, then the entire lots shall be liable for the entire tax.

Cost of sewer in excess of \$2 per foot how chargeable.

SECTION 8. The cost of all sewers in street and alley crossings, and of all sewers in excess of two dollars per lineal foot, chargeable to lots and lands as provided by section 7, of this chapter, of all catch basins for receiving the water from the gutters, and of the overflow pipes connecting them with the sewers, of all temporary catch basins, and all the repairing and cleaning of sewers, and all expenditures for temporary work, necessary to carry on the system of sewerage herein provided, and all costs of constructing sewers not provided for by special assessment shall be paid out of the fund of the proper sewerage district; and all cleaning and repairing of sew-

ers and catch basins, and all temporary work necessary to be done as above stated, shall be done by the authority of the board of public works as may be necessary.

SECTION 9. The board of public works shall report to the common council on or before the first day of November in each year as accurately as may be, the amount of money required for sewerage purposes for that year in each district, in addition to the special assessment made; and the common council are hereby authorized to direct the levy and collection of a tax for sewerage purposes in each district for such amount as may be necessary, not, however, to exceed in any one year the sum of two and one-half mills on the dollar, on all property, real and personal, subject to taxation in each district, which tax so levied shall, when collected, be placed in the fund of the sewerage district in which the same has been collected; and the city treasurer is hereby required and directed to keep a separate and distinct account of each sewerage district.

Board to report amount of money required.

SECTION 10. Any person to whom a contract is awarded for the construction of a sewer shall receive in payment certificates against the lots, parts of lots, or parcels of land as heretofore directed to be assessed, so far as the same will go, in liquidation of the amount of such contract, and shall be entitled to receive city orders for the balance due, payable only out of the fund of the proper district; and it shall be the duty of the board of public works, after the completion of any contract, and acceptance of the work, to issue such certificates on the request of the person entitled to receive them; and when any sum is found to be due a contractor over and above the amount of certificates so to be issued and received in part payment, to certify the same to the common council, which may direct an order to be drawn on the proper fund to pay the same. All certificates of special assessment for building sewers, shall be signed by the mayor and clerk of said city, and countersigned by the comptroller, and delivered to the person entitled to receive the same.

Contractor to receive certificates.

SECTION 11. All contracts entered into by the board of public works under this chapter shall be with sureties approved as to form and execu-

Sureties.

tion by the city attorney, and before taking effect, shall be signed by the mayor and clerk and countersigned by the comptroller.

Work to be  
superintended  
by the board.

SECTION 12. In all cases the work shall be subject to the superintendence and direction of the board of public works; and no contractor shall be entitled to recover compensation for any work executed by him in any form of action, unless such work shall have been approved by said board; provided, that the said board may from time to time, as the work progresses, at their discretion, grant to any contractor for a sewer an estimate of the amount and proportionate value of the work done, withholding in all cases twenty-five per cent. of said estimate, which shall entitle the holder thereof to receive the amount thereof, less said twenty-five per cent. from the proper fund.

Water and gas  
service pipes.  
House drains.

SECTION 13. Whenever the common council shall order the paving or repairing of any street in the city in which water, gas mains and sewers, or either of them shall have been previously constructed, they may also, by resolution, require the board of public works to cause water and gas service pipes and house drains to be first laid in such a street at the cost of the property fronting on said street, from the main sewer, water and gas mains in such street, to the curb line on either side of the street at intervals of not less than twenty feet, along the whole length of such paved street, except at street and alley crossings; and the board of public works shall thereupon give notice to the owners or occupants of the property adjoining such paved street, by publication thereof for six days in the official paper, requiring them to do the work opposite their respective lots according to the plan and specification to be before prepared and on file in the office of said board, showing the location and size, and the kind and quality of material of such lateral sewers and drains, and water and gas service pipes; and if such owners and occupants shall refuse or neglect to do the same, before the paving or repairing of the street so ordered, and within ten days after the publication of the said notice, the said board may procure the same to be done, and charge and assess the expense thereof to the lots or parts of lots fronting upon such work, in

the manner provided for assessing the cost of street improvements, by chapter 11, of the city charter of said city; and the same shall be levied and collected in the same manner as other special assessments are levied and collected in said city; provided, that no street shall be paved or repaved by order of the common council, unless the water and gas mains and service pipes, and necessary sewers and their connections shall, as required by the common council, be first laid and constructed in that portion of such street so to be paved or repaved.

SECTION 14. It shall be the duty of said board to see that proper drains and sewers are constructed from every lot in said city, which in their judgment requires it; and that such private drains and sewers are made to communicate with the public sewers in a proper manner; and they shall have power to require such number of private drains and sewers to be constructed, as they may deem expedient.

Private drains and sewers.

SECTION 15. The said board shall describe the location, arrangement, form, materials and construction of every drain and sewer for every lot in the city emptying into public sewers, and shall determine the manner and plan of the connections of the same; the work of construction shall be in all cases subject to the superintendence of said board, and shall be executed strictly in accordance with their orders; but the cost of such private sewers shall not be included in the estimate of the cost of the general plan of sewerage of any district, and shall be charged upon the lot or lots for the benefit of which such private sewer shall be constructed.

Board to describe location, etc., of drains emptying into public sewers.

SECTION 16. The said board shall have at their office ready for the examination of the parties interested, the specifications of any private drains or sewers so ordered to be constructed, and they shall give to the lot owners six days' notice in the official paper to construct the same, designating therein a reasonable time within which the work shall be completed; and in case any lot owner neglects to do the work required of him to be done, within [the time] specified in said notice, they shall advertise for proposals and let the same by contract; and on the completion of the contract shall give to the contractor a certificate or

In case lot owner refuses to do such work, work to be done by contract.

certificates against such lot or lots, which shall be proceeded with and shall have a like effect as other certificates given for work chargeable to lots.

Contractor may enter upon premises.

SECTION 17. Any person who has taken such contract from said board to construct a private drain or sewer from any lot, shall be authorized to enter upon such and construct such drain or sewer thereon, and shall have free ingress and egress upon the same with men for that purpose, and to deposit all the necessary building materials, and generally to do and perform all things necessary to a complete execution of the work.

Board to issue permit.

SECTION 18. No private drain shall be connected with any public sewer without the said board first issuing their permit for such connection; and there shall be paid for such permit into the general fund of the sewerage district, by the owner of any lot from which a private drain is led into a public sewer, an amount to be fixed by said board, proportioned to the size of such private drain, but not less than two and one-half, and not more than five dollars for every drain from any lot or parcel of a lot; and in case such amount is not paid it shall be a lien upon said lot, and collected as the other special assessments, and shall be collected as other taxes on real estate are collected; provided, that no charge shall be made for the permit herein referred to, when the connection for which it is used is made before the sewer is finished in front of the premises to be connected.

Penalty for connecting with public sewer without permit.

SECTION 19. No person is required to make connection until building, and no person shall break open or make connection with any public sewers, except by the consent and under the direction of the board of public works, and any person who shall do so, or shall wilfully and maliciously obstruct, damage or injure any public or private sewer or drain in said city, or wilfully injure any of the materials used or employed in said city for the purpose of sewerage, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five thousand dollars, or imprisonment in the county jail not more than three months.

SECTION 20. Any contractor or other person

acting under the direction of the board of public works, may lay sewers in and through any alleys and streets of said city and through any break-water into any lake, and also in any highways of the county, whether within the limits of said city or not; provided, that it shall be the duty of such contractor to repair such streets, alleys, breakwaters and highways, and to restore the same to the former condition upon the completion of such sewers.

Contractor may lay sewers through streets.

SECTION 21. Either of the duplicate diagrams filed as the final determination for a plan of sewerage for any district, after the expiration of nine months from the date of such filing, shall be conclusive proof of the regularity of such proceedings to establish the plan of sewerage shown on such diagram, and the regularity and legality of the proceedings to establish such plan of sewerage shall not thereafter be called in question in any court.

Diagram to be conclusive proof of regularity of the proceeding.

SECTION 22. When a plan of sewerage has been finally determined upon, it shall not be changed except by a vote of three-fourths of all the members of the council, in favor of the same. Such change shall be by ordinance passed at a regular meeting after they shall have been published, at least once in each week for two successive weeks in the official paper of the city.

Plan of sewerage, how changed.

SECTION 23. When such change shall have been determined upon duplicate diagrams shall be prepared, certified and filed as before, showing the plan of sewerage as changed, and after nine months from the date of such filing, the said duplicate shall be conclusive proof of the regularity and legality of the proceedings to establish such plan; any change rendering useless any existing sewer, the expense of change shall be paid by the general fund.

Duplicate diagrams.

SECTION 24. Whenever a contract shall have been let for the construction of any sewer, and the amounts have been determined that are chargeable to the lots or parcels of land abutting on the street or alley through which said sewer is to be constructed, if the common council deems it for the best interest of the property owners affected by the special assessment for the construction of said sewer, may cause a notice to be published in the official paper of the city once in

Assessment for construction of sewer.



each week for six successive weeks, substantially in the following form:

**IMPROVEMENT BONDS FOR SEWERAGE ASSESSMENTS.**

Form of notice.

Notice is hereby given that a contract has been let for the construction of (or the board of public works will construct, by order of the council), a sewer, as follows: (describe the street or alley); that a statement showing the amount of the special assessment chargeable to the lots and parcels of real estate abutting on the street (or alley) through which said sewer is to be constructed, is now on file with the city clerk. That all parties who desire to pay the special assessment on presentation of the proper certificates, are required to file their notice to that effect with the said clerk before the expiration of thirty days from the date of this notice; that the city will issue its per cent. semi-annual interest coupon bonds for an amount sufficient to cover the special assessments which the parties owning the property do not elect to pay on the presentation of the certificates in the manner stated; that said bonds will be a charge upon the particular lots only against which said special assessments are claimed.

Dated the — day of —, 18—.

City Clerk of the City of —.

Council may issue coupon bonds to cover unpaid assessment.

**SECTION 25.** The council shall have power to issue its coupon bonds for an amount sufficient to cover all special assessments which the parties do not elect to pay in accordance with said notice. Said bonds shall be payable at the option of the city after five years from the date of their issue, and absolutely within seven years from said date; they shall bear interest at a rate not exceeding six per cent. per annum, shall specify on their face that they are sewerage bonds and chargeable only to the particular lots and parcels of land described therein, and such other provisions as the council may think proper to insert. The bonds shall be signed by the mayor and city clerk, and be sealed by the official seal of the city, for the purpose of paying certain indebtedness heretofore incurred in the construction of a sewer through a portion of River and Bridge streets in said city. the common council are hereby authorized and empowered to issue and sell the corporate bonds of said city to

an amount of not exceeding five thousand dollars, which bonds shall bear interest at a rate of not exceeding six per cent. per annum, and be payable in not less than five nor more than seven years from their date, and shall be issued in such amounts each and be negotiated in such manner as the council by ordinance shall determine. For the purpose of paying the interest and principal of the last mentioned bonds, the council shall have power to levy annually such general sewerage tax, not exceeding one-half of one mill, as they may deem proper.

SECTION 26. Said assessment bonds may be sold by the common council at not less than par value, and the proceeds paid to the sewerage contractor, or the contract may provide that the contractor shall take the bonds as payment on his contract at their par value, with accrued interest.

Contractor may accept improvement bonds.

SECTION 27. The city shall pay the principal and interest on said bonds and shall reimburse itself by a tax on the particular lots mentioned in said bonds in the following manner:

City to pay principal and interest.

SECTION 28. The city clerk shall, in each year for five years succeeding the issue of said bonds enter in the tax roll as a special tax upon each of the parcels of land mentioned in the bonds, one-fifth of the special assessments as to each said parcel of land with six per cent. interest on the whole amount of said special assessment on such parcel of land then unpaid; said tax shall be treated in all respects as any other city tax, and when collected shall be credited to the sewerage fund of said city.

One-fifth of special assessment to be entered in tax roll.

SECTION 29. After the issue of said bonds no action shall be brought or maintained in any of the courts of this state to avoid the tax mentioned in the foregoing section.

Tax not to be avoided.

SECTION 30. This act shall take effect and be in force from and after its passage and publication.

Approved March 25, 1889.