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Charter 1889.

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CHARTER

OF THE

City of Ann Arbor,

MICHIGAN.

1889.

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CHARTER

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OF THE

City of Ann Arbor,

MICHIGAN.

Printed by Authority of the Common Council.

ANN ARBOR:
COURIER BOOK AND JOB PRINTING HOUSE.
1889.

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MAYORS OF CITY.

GEORGE SEDGWICK,	.	.	from April,	1851,	to April,	1853.
EDWIN R. TREMAIN,	.	.	" "	1853,	" "	1855.
JAMES KINGSLEY,	.	.	" "	1855,	" "	1856.
WILLIAM S. MAYNARD,	.		" "	1856,	" "	1858.
PHILIP BACH,	.		" "	1858,	" "	1859.
ROBERT J. BARRY,	.	.	" "	1859,	" "	1861.
JOHN F. MILLER,	.	.	" "	1861,	" "	1862.
CHARLES SPOOR,	.	.	" "	1862,	" "	1863.
EBENEZER WELLS,	.	.	" "	1863,	" "	1865.
WILLIAM S. MAYNARD,	.		" "	1865,	" "	1866.
OLIVER M. MARTIN,	.	.	" "	1866,	" "	1868.
CHRISTIAN EBERBACH,	.		" "	1868,	" "	1869.
ALFRED H. PARTRIDGE,	.		" "	1869,	" "	1870.
WILLIAM D. HARRIMAN,	.		" "	1870,	" "	1871.
SILAS H. DOUGLAS,	.	.	" "	1871,	" "	1873.
HIRAM J. BEAKES,	.	.	" "	1873,	" "	1875.
EDWARD D. KINNE,	.	.	" "	1875,	" "	1877.
DENSMORE CRAMER,	.	.	" "	1877,	" "	1878.
WILLARD B. SMITH,	.	.	" "	1878,	" "	1880.
JOHN KAPP,	.	.	" "	1880,	" "	1883.
WILLIAM D. HARRIMAN,	.		" "	1883,	" "	1885.
JOHN KAPP,	.	.	" "	1885,	" "	1886.
JOHN J. ROBISON,	.	.	" "	1886,	" "	1887.
WILLARD B. SMITH,	.	.	" "	1887,	" "	1888.
SAMUEL W. BEAKES,	.	.	" "	1888,	" "	——.

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CITY OFFICERS.

MAYOR,
SAMUEL W. BEAKES.

CITY CLERK,
JAMES R. BACH.

ASSESSOR,
PATRICK O'HEARN.

JUSTICES OF THE PEACE,
ELIHU B. POND. NOAH G. BUTTS.

THE COMMON COUNCIL.

PRESIDENT,
FREDERICK H. BELSER.

ALDERMEN,

First Ward,
GEORGE F. ALMENDINGER, W. G. DIETERLE.

Second Ward,
WILLIAM HERZ, CHRISTIAN MARTIN.

Third Ward,
REGINALD SPOKES WILLIAM G. SNOW.

Fourth Ward,
WILLIAM J. MILLER, JOHN O'MARA.

Fifth Ward,
EARL B. WARE, OSCAR S. SPAFFORD.

Sixth Ward,
FRED BARKER. AZARIAH F. MARTIN

CITY ATTORNEY,
THOMAS D. KEARNEY.

MARSHAL,
WILLIAM WALSH.

BOARD OF PUBLIC WORKS.
JACOB F. SCHUH, HERMAN HUTZEL,
THOMAS J. KEECH.

STREET COMMISSIONER,
NELSON SUTHERLAND.

BOARD OF FIRE COMMISSIONERS,
MOSES SEABOLT, MORTIMER E COOLEY,
GEORGE H. POND.

CHIEF OF THE FIRE DEPARTMENT,
FRED. SIPLEY.

BOARD OF HEALTH,
WILLIAM F. BREAKEY, M. D., ELI W. MOORE,
JOHN S. HENDERSON.

HEALTH OFFICER,
WILLIAM F. BREAKEY, M. D.,

SUPERVISORS.

1st Ward—JOHN R. MINER. 4th Ward—AMBROSE KEARNEY.
2d Ward—EUGENE OESTERLIN. 5th Ward—AMOS COREY.
3d Ward—CHASE DOW. 6th Ward—JOHN W. BENNETT.

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The present charter of the city was first prepared by a committee of the Common Council of 1888, consisting of Mayor Beakes, Alds. Wines, Allmendinger, Kearns and City Attorney King, revised and corrected by Elihu B. Pond, employed by the council to correct phraseology, and by the above committee associated with the following committee of business men: A. L. Noble, Frederick Schmid, Moses Scabolt, E. K. Fruesuff and H. J. Brown. It is printed by authority of the Common Council.

MAY 1889.

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CHARTER

—OF THE—

CITY OF ANN ARBOR.

AN ACT to reincorporate the City of Ann Arbor, revise the Charter of said City, and repeal all conflicting Acts relating thereto.

INCORPORATION AND BOUNDARIES.

SECTION 1. *The People of the State of Michigan enact*, That so much of the township of Ann Arbor, in the county of Washtenaw, as is included in the following limits, to-wit: The south three-fourths of section number twenty, the south three-fourths of the west three-fourths of section number twenty-one, the west three-fourths of section number twenty-eight, entire section number twenty-nine, the north half of section number thirty-two, and the west three-fourths of the north half of section number thirty-three, in township two south, of range six east, and also so much of the east half of the south-east quarter of section number twenty one, and the east half of the northeast quarter of section number twenty-eight, as lies west of the easterly bank of the Huron river, and north of the south line of the territorial road, crossing said river on or near the line between said sections, be and the same is hereby set off from said township, and declared to be a city, by the name of the city of Ann Arbor; and the freemen of said city from time to time being inhabitants thereof, shall be and continue to be a body corporate and

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politic, by the name of "the city of Ann Arbor," and by that name it shall be known in law, and shall be capable of suing and being sued, and of prosecuting and defending all suits; they may have a common seal, which the common council may alter at pleasure, and shall be capable of purchasing, holding, conveying and disposing of real and personal estate for the use of said corporation.

SECTION 2. The city shall be divided into six wards, as follows: The first ward shall embrace all that part of the city lying south of Huron street, east of Main street and the Ann Arbor and Lodi plank road, and west of State street and the Pittsfield road, or State street as continued; the second ward shall embrace all that portion of the city lying south of Huron street and west of Main street, and the Ann Arbor and Lodi plank road; the third ward shall embrace all that portion of the city lying north of Huron street south of the river Huron, and west of Fourth street extending to the river Huron; the Fourth ward shall embrace all that portion of the city lying north of Huron street and of the line of Huron street as extended to the city limits, and south of the river Huron, and east of Fourth street; the fifth ward shall embrace all that portion of the city lying northeast of the Huron river; the sixth ward shall embrace all that portion of the city lying south of Huron street, and the line of Huron street, as extended east to the city limits, and east of State street, and the Pittsfield road, or State street as extended. The aforesaid divisions are made by the actual or supposed continuation of the center line of each of said division streets in the present direction thereof to the city limits.

SECTION 3. The common council shall have power,

SECTION 1. The city may take personal property in trust for all purposes in keeping with or in furtherance of the real and final objects meant to be accomplished by its creation. This is true even if there is a present lack of power in the corporation to fitly administer the trust, since the legislature may confer such power: Hathaway vs. Sackett, 32 Mich., 97.

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by ordinance duly past, to divide any ward which shall have polled more than six hundred votes at the last preceding general election, into polling precincts, which precincts shall be as nearly equal as possible in point of population, and the common council shall have the power to provide for separate re-registration for each polling precinct when any such precinct shall be created, and the registration of electors for all elections shall be conducted in each precinct as nearly as possible as the elections are conducted in the several wards, and no voter shall vote in other than the precinct in which he shall reside. The common council shall also provide registration books for any ward that shall be so divided—one for each precinct—and the board of registration shall be as constituted by this act, but each voter's name shall be registered in the book provided for the precinct in which he resides. The returns of the elections in precincts shall be made and canvassed in the same manner as in wards, and the word precinct in elections shall, to all intents and purposes, be synonymous with the word ward.

ELECTORS AND REGISTRATION.

SECTION 4. The inhabitants of said city of Ann Arbor, having the qualifications of electors under the constitution and laws of the State, and no others, shall be electors therein.

SECTION 5. At all elections in said city every elector shall vote in the ward where he shall have resided during the ten days next preceding the day of election. The residence of any elector, not being a householder, shall be deemed to be in the ward in which he rooms and lodges.

SECTION 6. Any person offering to vote at any election held in this city, shall, if challenged by an elector of the ward in which he offers to vote, take, before his vote shall be received, one of the oaths or affirmations provided by the laws of the State for electors at general elections, which oath may be administered by either of the inspec-

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tors of election. Upon taking such oath or affirmation, if duly registered in said ward, he shall be permitted to vote.

SECTION 7. The supervisor and aldermen of each ward shall constitue the board of registration therein, except as in this act otherwise provided. If by any reason there shall not be a full board of registration, the common council shall supply any vacancy or appoint a board of registration for the ward.

SECTION 8. A new and complete registration of electors shall be made in the several wards on Tuesday and Wednesday preceding the general election to be held in the year 1890, and on the Tuesday and Wednesday preceding the general election to be held every eighth year thereafter, for which purpose the several ward boards shall be and remain in session at such places as the common council shall direct, from eight o'clock in the forenoon to eight o'clock in the afternoon of the days before named. Notice of such sessions and registration shall be given as provided in section two of "An act to further preserve the purity of elections and guard against the abuse of the election franchise by a registration of electors," approved February 14, 1859, and registration books of the form prescribed by statute and now in use in said city shall be provided under the direction of the common council. The rules and regulations prescribed in the act before cited, shall be observed and carried out in making the registration hereby ordered, and when any new registration shall

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SECTION 6. "No elector shall be deemed to have gained or lost a residence by reason of his being employed in the service of the United States, or of this State; nor while engaged in the navigation of the waters of this State or of the United States or of the high seas; nor while a student of any seminary of learning: nor while kept at any almshouse or other asylum at public expense; nor while confined in any public prison": Con. Art. 7, Sec. 5. A persons residence is where he has his home or habitation fixed without any present intention of removing therefrom: Rue High's Case, 2 Doug., 523. Residence is not lost by temporary absence if there is an intention to return. A man may gain a residence in one place while his family reside at another: Harbaugh vs. Cicott, 33 Mich., 252.

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have been completed under the provisions of this act the registry books prior thereto in use in said city shall be deemed invalid, and no person shall vote at any election in any ward of said city whose name shall not be entered in the new register made under the provisions of this act, or be afterwards properly entered in such new registry, according to the provisions of the act aforesaid and this act.

SECTION 9. Sessions of the board of registration shall be held in the several wards on the Tuesday preceding each general election of State and county officers at which a new and complete registration is not ordered for the purpose of registering new electors in said ward registration books in the manner prescribed in the aforesaid act, like notice to be given as provided by section six of said act, which session shall commence at 8 o'clock in the forenoon and close at 8 o'clock in the afternoon; and on the Wednesday preceding such general election the said board of registration shall hold a session at the common council room, in said city, from nine o'clock in the forenoon until four o'clock in the afternoon for the purpose of comparing, revising, correcting and completing the several ward registration lists. At such session the presence of two members of each ward board of registration shall be necessary to constitute a quorum. Applicants for registration, being

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SECTION 8. For General Registration Law see Howell's Statutes, §81 to §87.

SECTION 9. If the board of registration fails to meet, electors not registered cannot vote: People vs. Kopplekom, 16 Mich., 342.

If a name is falsely and maliciously erased, the member of the board so erasing the name is liable to fine and imprisonment: Public Acts 1883, page 175.

If an applicant offers to be examined relative to his right to register, it is the duty of the board to examine him under oath. They cannot reject him without such examination and the court may direct an issue of fact to determine his qualifications. If these are not denied a mandamus may be issued directing the board to meet and register the applicant: People vs. Board etc. of Detroit, 17 Mich., 427; People vs. Board etc. of Naukin, 15 Mich., 156.

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duly qualified electors, may register at such session, and the names of electors who have removed or died since the preceding election shall be erased with red ink, with the remark "dead," or "removed," with the date of erasure. If the name of any elector shall be erased by mistake such elector may be re-registered on the day of election as provided by section eighteen of the act hereinbefore cited.

SECTION 10. Sessions of the boards of registration shall be held in the several wards on the Wednesday preceding each charter or special election for new registration, and correction of the registry books, such sessions to be noticed and conducted as provided for by the act before cited, except that the erasure of the names of electors who have removed or died shall be made as provided in the preceding section. Such sessions shall commence at eight o'clock in the forenoon and close at eight o'clock in the afternoon; *Provided*, That in giving notice of registration for a special election, it shall not be necessary to print the names of the electors then duly registered.

SECTION 11. Two members shall at all times be present during the sessions of each ward board of registration.

ELECTIONS.

SECTION 12. An annual city charter election shall be held on the first Monday in April in each year, at such place in each of the several wards of the city as the common council shall designate.

SECTION 13. Special elections may be appointed by resolution of the common council, to be held in and for the city, or in and for any ward thereof, at such time and place, or places, as the common council shall designate; the purpose and object of which shall be fully set forth in the resolution appointing such election.

SECTION 14. Whenever a special election is to be held the common council shall cause to be delivered to the in-

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spectors of election in the ward or wards where the same is to be held, a notice signed by the city clerk, specifying the officer or officers to be chosen, and the question or proposition, if any, to be submitted to the vote of the electors, and the day and place at which such election is to be held, and such election shall be conducted in the same manner as the annual charter elections.

SECTION 15. Notice of the time and place or places of holding any election, and of the officers to be elected, and the question to be voted upon, shall, except as herein otherwise provided, be given by the city clerk at least ten days before such election, by posting such notices in three public places in each ward in which the election is to be held, and by publishing a copy thereof in a newspaper published in the city, the same length of time before the election; and in case of a special election the notice shall set forth the purpose and object of the election as fully as the same are required to be set forth in the resolution appointing such election: *Provided*, That if any election of officers under the act shall not be held on the day when it ought to have been held, the said corporation shall not be dissolved, but it shall be lawful to hold such election at any time thereafter, public notice being given as provided in this act.

SECTION 16. The common council shall provide and cause to be kept by the city clerk, for use at all elections, suitable ballot boxes of the kind required by law to be kept and used in townships.

SECTION 17. At all charter elections the polls shall be opened in each ward at the several places designated by the common council, at eight o'clock in the morning, and shall be kept open until four o'clock in the afternoon, at

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SECTION 15. Failure to give notice of election does not invalidate election: Speed vs. Hartwell, 12 Mich., 508; but if it is not imperative to fill an office at a certain election, failure to give the notice required invalidates the election: People vs. Witherell, 14 Mich., 48. See Secord vs. Foutch, 44 Mich., 89; Powell vs. Jackson etc., 51 Mich., 129.

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which hour they shall be finally closed. The inspectors shall cause proclamation to be made of the opening and closing of the polls.

SECTION 18. The supervisor and two aldermen of each ward shall, except as herein otherwise provided, be the inspectors of election. When any ward shall have been divided into precincts, the common council shall appoint, on the nomination of the mayor, such additional inspectors of election as shall be necessary to constitute a board of three inspectors for each of said precincts; and if at any election any of the inspectors shall not be present or remain in attendance, the electors present may choose *viva voce* such number of such electors, as with the inspector or inspectors present, shall constitute a board of three in number, and each such elector so chosen shall be inspector of that election.

SECTION 19. The supervisor, if present, shall be chairman of the board, and in his absence the inspectors shall appoint one of their number chairman; and said inspectors shall appoint two electors to be clerks. The inspectors chosen and clerks appointed shall take the constitutional oath of office, which oath may be administered by either of the inspectors, or by a justice of the peace or notary public.

SECTION 20. All elections held under the provisions of this act shall be conducted as nearly as may be in the manner provided by law for holding general elections in this state, except as herein otherwise provided; and the inspectors of such elections shall have the same power and authority for the preservation of order and for enforcing obedience to their lawful commands during the time of

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SECTION 17. See cases cited in People vs. Cicott, 16 Mich., on pages 305 and 324.

SECTION 20. The general election law is found in Howell's Statutes §154 to §237. Sections 162, 167, and 177 of Howell's Statutes were amended by Public Acts, 1887, page 409, by requiring election seals to be furnished and regulating the manner of sealing the ballot boxes.

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holding the election and the canvass of the votes as are conferred by law upon inspectors of general elections held in this state.

SECTION 21 The electors shall vote by ballot, and the same ballot shall contain the names of the persons designated as officers for the city and as officers for the ward. The ballots cast upon any question or proposition submitted to be voted upon, shall be separate and be deposited in a separate box.

SECTION 22. If at any election vacancies are to be supplied in any office, or if any person is to be elected for less than a full term of office, the term for which any person is so voted, shall be designated on the ballot.

SECTION 23. It shall be the duty of the inspectors on receiving the vote, as specified in the last two sections, to cause the same, without being opened or inspected, to be deposited in the proper box provided for that purpose. The clerks shall also write the names of the electors voting at such elections, in the poll lists to be kept by them. And such lists shall be so kept as to show the number and the names of the electors voting upon any question or proposition submitted to the vote of the electors.

SECTION 24. Immediately after closing the polls, the inspectors of election shall, without adjourning, publicly canvass the votes received by them, and declare the result; and shall, on the same day, or on the next day, make a statement in writing, setting forth in words at full length the whole number of votes given for each office, the names of persons for whom such votes for each office were given, and the number of votes so given for each person; the whole number of votes given upon each question voted upon, and the number of votes given for and against the same, which statement shall be certified under the

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SECTION 21. Ballots in the wrong box are to be counted unless they are deposited in the wrong box by the fraud of the elector: People vs. Bates, 11 Mich., 362.

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hands of the inspectors to be correct; and they shall deposit such statement and certificate on the day of election, or on the next day, together with such poll lists, the register of electors and the boxes containing said ballots, in the office of the city clerk.

SECTION 25. The manner of canvassing said votes shall be the same as prescribed by law for canvassing votes at the general elections held in this State, and the inspectors shall in all other respects, except as herein otherwise provided, conform as nearly as may be to the duties required of inspectors of election at such general elections.

SECTION 26. The common council shall convene on the Thursday next succeeding each election, at their usual place of meeting, and determine the result of the election upon each question and proposition voted upon, and what persons are duly elected at said election to the several offices respectively; and thereupon the city clerk shall make duplicate certificates, under the corporate seal of the city, of such determination, showing the result of the election upon any question or proposition voted upon, and what persons are declared elected to the several offices respectively, one of which certificates he shall file in the office of the clerk of the county of Washtenaw and the other shall be filed in the office of the city clerk.

SECTION 27. The person receiving the greatest number of votes for any city or ward office shall be deemed to have been duly elected to such office, and if there shall be no choice for any office by reason of two or more candi-

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SECTION 26. The duties of the council in determining the result of election are purely ministerial. See Keller vs. Robertson, 27 Mich., 116; People vs. Van Cleve, 1 Mich, 362. No person can be declared elected unless he has received more votes for the office than any other person even if there is not, in fact, any such other person in existence. If the person receiving the highest number of votes is ineligible the next highest cannot be declared elected: Crawford vs. Mollitor, 23 Mich., 311.

SECTION 27. A party participating in a drawing is not thereby precluded from contesting the election of his opponent: Keeler vs. Robertson, 27 Mich., 116.

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dates having received an equal number of votes, the common council shall at the meeting mentioned in the preceding section determine by lot between such persons, which shall be considered elected to such office.

SECTION 28. It shall be the duty of the city clerk, within five days after the meeting and determination of the common council, as provided in section 27 [26,] to notify each person elected, in writing, of his election, and he shall also, within five days after the common council shall appoint any person to any office, in like manner notify such person of such appointment.

SECTION 29. Within one week after the expiration of the time in which any official bond or oath of office is required to be filed, the city clerk shall report in writing to the common council the names of the persons elected or appointed to any office who shall have neglected to file such oath and bond or security for the performance of the duties of the office.

OFFICERS.

SECTION 30. The following city officers, viz: A mayor, president of the common council, city clerk, two justices of the peace and an assessor shall be elected by the qualified voters of the whole city, and a supervisor, two aldermen and a constable shall be elected in each ward.

SECTION 31. The following officers shall be appointed by the mayor subject to the approval of a majority of the members elect of the common council, viz: A city marshal, a city treasurer, a city attorney, members of the board of public works, members of the board of fire commissioners, and members of the board of health. The common council may also, from time to time, provide by ordinance for the appointment, and appoint for such term as may be provided in any such ordinance, such other officers whose election or appointment is not herein specially provided for, as the common council shall deem necessary

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for the execution of the powers granted by this act, and may remove the same at pleasure. The powers and duties of all such officers shall be prescribed by ordinance.

SECTION 32. Appointments to office by the mayor, except appointments to fill vacancies, shall, unless otherwise provided, be made on the first Monday in May in each year; but appointments which for any cause shall not be made on this day may be made at any subsequent regular meeting of the common council.

SECTION 33. The mayor, president of the common council, supervisors and constables shall hold their offices for the term of one year from the second Monday in April of the year when elected, and until their successors are qualified and enter upon the duties of their offices. The justices of the peace shall be elected for the term of four years from the fourth day of July next after their election, one to be elected each alternate year.

SECTION 34. The city clerk, assessor and aldermen shall hold their offices for the term of two years from the second Monday in April in the year when elected, and until their successors are elected and qualified.

SECTION 35. All other officers, except as hereinafter provided, appointed by the mayor and common council or boards of the city, except officers appointed to fill vacancies in elective offices, shall hold their respective offices until the first Monday in May next after such appointment, and until their successors are qualified and enter upon the duties of their office, unless a different term of office shall be provided in this act or by an ordinance duly enacted.

QUALIFICATIONS, OATH, OFFICIAL BONDS.

SECTION 36. No person shall be elected or appointed to any office, unless he be an elector of said city, and if

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SECTION 35. When the charter fixes the term of office, appointments cannot be made for less than the term fixed: Stadler vs. Detroit, 13 Mich., 346.

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elected or appointed for a ward, he must be an elector thereof; and no person shall be elected or appointed to any office in the city who has been or is a defaulter to the city or any board of officers thereof, or to any school district, county or other municipal corporation of the state. All votes for or any appointment of any such defaulter shall be void.

SECTION 37. Justices of the peace elected in said city shall take and file an oath of office with the county clerk, of the county of Washtenaw, within the same time and in the same manner as in the cases of justices of the peace elected in townships. All other officers elected or appointed in the city, shall, within ten days after receiving notice of their election or appointment, take and subscribe the oath of office prescribed by the constitution of the State, and file the same with the city clerk.

SECTION 38. Officers elected or appointed, except justices of the peace, before entering upon the duties of their offices and within the time prescribed for the filing of their official oaths, shall file with the city clerk such a bond or security as may be required by law or by any ordinance or requirement of the common council, and with such sureties, who shall justify in writing and under oath, as required by the laws of this State, as shall be approved by the common council for the due performance of the duties of their office, except that the bond or security of the city clerk shall be deposited with the city treasurer.

SECTION 38. Sureties are liable only for the acts and defaults of the principal during the time for which the bond is given: Paw Paw vs. Eggleston, 25 Mich., 36. A surety is liable on a bond signed by him in blank: McCormick vs. Bay City, 23 Mich., 457. Sureties are not liable on a bond which the principal fails to sign: Vincent vs. Kimball Township, 39 Mich., 187. But representations made to them at the time they sign the bond will not release the sureties: Detroit vs. Weber, 26 Mich., 284. The council cannot dispense with any condition required to be in the bond by the charter: Detroit vs. Weber, 26 Mich., 234. An officer authorized to approve a bond, on which he himself is surety, is thereby precluded from approving it: Stevenson vs. Bay City, 26 Mich., 44.

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SECTION 39. The common council may also, at any time, require any officer, whether elected or appointed, to execute and file with the city clerk new official bonds in the same or in such further sums, and with new or with such further sureties as said common council may deem requisite for the interest of the corporation. Any failure to comply with such requirements shall subject the officer to immediate removal by the common council.

VACANCIES IN OFFICE.

SECTION 40. Resignation of officers shall be made to the council, subject, to their approval and acceptance.

SECTION 41. If any officer shall cease to be a resident of the city, or if elected in and for a ward, shall remove therefrom during his term of office, the office shall thereby be vacated. If any officer shall be a defaulter, the office shall thereby be vacated.

SECTION 42. If any person elected or appointed to office shall fail to take and file the oath of office, or shall fail to give the bond or security required for the due performance of the duties of his office within the time herein limited therefor, the common council may declare the office vacant, unless previous thereto he shall file the oath and give the requisite bond or security.

SECTION 43. A vacancy in the office of mayor, president of the council, justice of the peace or aldermen, occurring more than ninety days preceding an annual elec-

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SECTION 41. An office becomes vacant (1) on the death of the incumbent; (2) his resignation; (3) his removal from office; (4) his removal from the state, or in case of local offices, from the locality in which he was appointed; (5) upon his conviction of an infamous crime or any offense involving a violation of his oath of office; (6) the decision of a competent tribunal declaring his election or appointment void; (7) refusal or neglect to take the oath of office or to give or renew any official bond within the time prescribed by law: Howell's Statutes, Sec. 619.

SECTION 42. A party entitled to an office, loses his right unless he files his oath and bond within the time prescribed by law: Wayne Auditors vs. Benoit, 20 Mich., 181; Paw Paw vs. Eggleston, 25 Mich., 39.

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tion, may be filled at a special election on the order of the common council. A vacancy in the office of justice of the peace or alderman, occurring within ninety days preceding an annual election, shall be filled at such annual election. A vacancy occurring in the office of city clerk may be filled by appointment by the mayor, confirmed by a majority of the members elect of the common council, unless said officer has more than one year to serve at the time such vacancy shall occur, in which case it shall be filled at the next ensuing election, and the mayor, with the consent of the council, shall appoint a city clerk to act until such election: *Provided*, That vacancies occurring within ninety days preceding any State election may be filled thereat; vacancies in other offices shall be filled by the mayor, subject to the approval of a majority of the members elect of the common council.

SECTION 44. The resignation or removal of any officer shall not, nor shall the appointment or election of another to the office, exonerate such officer or his sureties from any liabilities incurred by him or them.

SECTION 45. Whenever an officer shall resign or be removed from office, or the term for which he shall have been elected or appointed shall expire, he shall, on demand, deliver over to his successor in office all the books, papers, moneys and effects in his custody as such officer, and in any way appertaining to his office; and every person violating this provision shall be deemed guilty of a misdemeanor, and may be proceeded against in the same manner as public officers generally, for a like offense, under the general laws of the State now or hereafter in force and applicable thereto; and every officer appointed or elected under this act shall be deemed an officer within

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SECTION 43. When the vacancy *must* be filled, as in the case of justice of the peace, notice of an election is not absolutely requisite, but when, as in the other cases, it is not imperative to fill the office, failure to give the notice required invalidates the election: People vs. Witherell, 14 Mich., 48; see note to Sec. 15.

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the meaning and provisions of such general laws of the State.

DUTIES OF OFFICERS—THE MAYOR.

SECTION 46. The mayor shall be the chief executive officer of the city, and shall from time to time give to the common council information, in writing, concerning the affairs of the corporation, and recommend such measures as he may deem expedient. It shall be his duty to exercise supervision over the several departments of the city government, and to see that the laws relating to the city and the ordinances and regulations of the common council are enforced.

SECTION 47. The mayor shall be a conservator of the peace, and may exercise within the city the powers conferred upon sheriffs to suppress disorder, and shall have authority to command the assistance of all able-bodied citizens to aid in the enforcement of city ordinances or laws of the State, and to suppress riot and disorderly conduct.

SECTION 48. The mayor shall have authority at all times to examine and inspect the books, records and papers of any agent, employé or officer of the city, and shall perform generally all such duties as are or may be prescribed by the ordinances of the city.

SECTION 49. In the absence or disability of the mayor, or in case of any vacancy in his office, the president of the common council shall perform the duties of the mayor.

ALDERMEN.

SECTION 50. The aldermen of the city shall be members of the common council, attend all the meetings thereof, and act upon committees when thereunto appointed by the president of the council. As conservators

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SECTION 50. Mandamus does not lie to compel aldermen to attend meetings of the common council: People vs. Whipple, 41 Mich., 548.

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of the peace they shall aid in maintaining quiet and good order in the city, and in securing the faithful performance of duty by all officers of the city.

CITY CLERK.

SECTION 51. The city clerk shall keep the corporate seal and all the documents, official bonds, papers, files and records of the city, not by this act or by the ordinances of the city entrusted to some other officer; he shall be clerk of the common council, shall attend its meetings, record all its proceedings, ordinances and resolutions, and shall countersign and register all licenses granted, and report the same with the amount thereof to the common council monthly; he shall, when required, make and certify, under seal of the city, copies of the papers and records filed and kept in his office, and such copies shall be evidence in all places of the matters therein contained to the same extent as the original would be. He shall possess and exercise the powers and duties of township clerk so far as the same are required to be performed within the city, and shall have authority to administer oaths and affirmations. He shall be entitled to a fee of fifty cents for each and every license issued by him, to be paid by the person obtaining the same. The city clerk may, subject to the approval of the common council, appoint a deputy, and such deputy may perform any and all the duties of such clerk: *Provided*, That said deputy shall receive no compensation from the city.

SECTION 52. The city clerk shall be the general accountant of the city, and all claims against the corporation shall be filed with him for adjustment. After examination thereof he shall report the same, with all accompanying vouchers and counter claims of the city, and the true balance as found by him to the common council for allowance,

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SECTION 51. In recording council proceedings, no ambiguous entries should be made, especially in recording votes when a majority vote is required: McCormick vs. Bay City, 23 Mich., 457.

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and when allowed, shall draw his warrant upon the treasurer for the payment thereof, designated thereon the fund from which payment is to be made, and take proper receipts therefor; but no warrant shall be drawn upon any fund after the same has been exhausted, and any warrant so drawn shall be void. When any tax or money shall be levied, raised or appropriated, he shall report the amount thereof to the city treasurer, stating the object and fund for which it is levied, raised or appropriated, and the amount thereof to be credited to each fund.

SECTION 53. The city clerk shall keep himself thoroughly acquainted, and make himself conversant with the doings of all officers charged in any manner with the receipt, collection and disbursement of the city revenues, and shall have general supervision over all the property and assets of the city; he shall have charge of all books, vouchers and documents relating to the accounts, contracts. debts and revenues of the corporation; he shall countersign and register all bonds issued, and keep a list of all property and effects belonging to the city, and of all its debts and liabilities; he shall keep a complete set of books, exhibiting the financial condition of the corporation in all its departments, funds, resources and liabilities, with a proper classification thereof, and showing the purpose for which each fund was raised; he shall also keep an account with the treasurer, in which he shall charge him with all moneys received for each of the several funds of the city, and credit him with all the warrants drawn thereon, keeping a separate account with each fund; when any fund has been exhausted, he shall immediately advise the common council thereof; the city clerk shall be the clerk of the board of public works and all other boards, the clerk of all standing and special committees of the common council, and the clerk of all the boards of the city that may from this time be established. He shall render to the common council on the first Monday of every month, and oftener if required, a report of the amount of all or-

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ders drawn since the last preceding report, what orders remain outstanding and unpaid, and the balance remaining to the credit of each fund.

SECTION 54. The city clerk shall report to the common council whenever required a detailed statement of the receipts, expenditures and financial condition of the city, of the debts to be paid and moneys required to meet the estimated expenses of the corporation, and shall perform such other duties pertaining to his office as the common council may require. The clerk shall be the sealer of weights and measures for the said city, and shall perform all the duties of township clerk relative thereto.

SECTION 55. The common council shall provide and fit up an office for the city clerk, and establish office hours during which said clerk shall be required to be at his office.

JUSTICES OF THE PEACE.

SECTION 56. The justices of the peace in said city exercising civil jurisdiction shall be deemed justices of the peace of the county of Washtenaw, and shall have all the powers and jurisdiction given by the general laws of the state in relation to civil and criminal cases before justices of the peace in townships, and appeals from their judgments and convictions may be made to the circuit court for the county of Washtenaw in the same manner as appeals from justices' judgments and convictions in towns are made: *Provided*, That all actions within the jurisdiction of justices of the peace may be commenced and prosecuted in said justices' courts, when the plaintiff or defendant, or one of the plaintiffs or defendants reside in said city of Ann Arbor, in the township of Ann Arbor, in any township next adjoining the township of Ann Arbor, or in any city formed from a township of Ann Arbor: *Pro-*

SECTION 56. The constitution fixes the power of justices of the peace and legislation cannot curtail or abolish their civil jurisdiction: Altor vs. Wayne Auditors, 43 Mich., 75. Their criminal jurisdiction depends entirely upon the statutes: Sarah Ways Case, 41 Mich., 299.

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vided, That the township of Ypsilanti shall be deemed to be a township adjoining the township of Ann Arbor within the meaning of this act.

SECTION 57. Any justice of the peace residing in said city of Ann Arbor, shall have full power and authority, and it is hereby made the duty of such justice, upon complaint to him in writing, to inquire into and hear, try and determine all offenses which shall be committed within said city against any of the by-laws or ordinances which shall be made by the common council in pursuance of the powers granted by this act, and to punish the offenders as by said by-laws or ordinances shall be prescribed or directed, to award all process, and take recognizance for the keeping of the peace, for the appearance of the person charged, and upon appeal, and to commit to prison as occasion may require. In case there shall be at any time in said city, from any cause, no qualified justice of the peace, suits for a violation of any of the city ordinances may be brought before one of the justices of the peace of the township of Ann Arbor.

THE ASSESSOR.

SECTION 58. The assessor shall annually estimate the value of all the taxable real and personal property in the city, and make the several ward assessment rolls at the time and in the manner as hereinafter in this act provided; he shall spread upon said rolls any and all taxes duly certified to him by order of the common council, by the board of supervisors of the county of Washtenaw, or by other proper authority; and his warrant attached to said rolls, directing the collection of the taxes so levied and spread thereon, shall have the same power and effect as the warrant of a supervisor made in accordance with the state law.

SUPERVISORS.

SECTION 59. The supervisors of the several wards shall have the like powers and perform the like duties

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as supervisors of townships, except as herein otherwise provided; they shall represent their several wards in the board of supervisors of the county of Washtenaw, and shall have all the rights, privileges and powers of the several members of such board.

CONSTABLES.

SECTION 60. The constables shall have the like powers and authority in matters of civil and criminal nature, and in relation to the service of all manner of civil and criminal process, as are conferred by law upon constables in townships, and shall receive the like fees for their services and be subject to like liabilities for any neglect of duty imposed by general law upon constables in townships. They shall have power also to serve all process issued for breaches of the ordinances of the city. They shall obey all lawful orders of the mayor, alderman, and chief of police, and of any court or justice of the peace exercising jurisdiction in causes for breaches of the ordinances of the city; and shall discharge all duties required of them by any ordinance, resolution, or regulation of the common council, and for any neglect or refusal to perform any duty required of him, every constable shall be subject to removal from office by a vote of the common council.

CHIEF OF POLICE.

SECTION 61. The marshal shall be the chief of the police of the city. He shall be subject to the direction of the mayor. It shall be his duty to see that all the ordinances and regulations of the common council, made for the preservation of quiet and good order, and for the safety and protection of the inhabitants of the city, are

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SECTION 60. Constables are local peace officers. The constitution used the word as having a known meaning, and their functions of a peace officer in the arrest of criminals, and the prevention of crimes and disturbances cannot be taken away by legislation. Allor vs. Wayne Auditors, 43 Mich., 76. They must be elected: Abels vs. Ingham Supervisors, 42 Mich., 526. A constable cannot serve process in his own favor: Morton vs. Crane, 39 Mich., 526.

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promptly enforced, and when he shall know or learn of the violation of any ordinance of the city or penal statute of the state, it shall be his duty to enter complaint before one of the justices of the peace of said city, and to do whatever shall be necessary to bring the offender to justice. He shall have the same power to serve and execute all process issued by any justice of the peace of said city in behalf of said city or of the people of the state for offences committed within said city as sheriffs or constables have by law to serve and execute similar process, and shall suppress all riots, disturbances, and breaches of the peace, and for that purpose may command the aid of all citizens in the performance of such duty. He shall arrest all disorderly persons in the city, and pursue and arrest any person fleeing from justice in any part of the state. He may arrest upon view, and with or without process, any person found in the act of committing any offense against the laws of the state or the ordinances of the city, and forthwith take such person before the proper magistrate or court for examination or trial, and may arrest persons found drunk in the streets and imprison them until they shall become sober: *Provided*, That nothing in this section contained shall be construed to authorize the marshal to arrest without process, under a state law, any person charged with an offense within the jurisdiction of justices of the peace.

SECTION 62. The marshal shall report, in writing and on oath, to the common council at their first meeting in each month, all arrests made by him and the cause thereof,

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SECTION 61. An arrest without a warrant is not lawful, except where public security requires it. There must be reasonable belief of felony or a breach of the peace committed in the officer's presence: Allor vs. Wayne Auditors, 43 Mich., 76, 97; Sarah Way's Case, 41 Mich., 299; Quinn vs. Heisel, 40 Mich., 576. Arrests for misdemeanors can only be made without a warrant by an officer who actually sees the offense which constitutes the misdemeanor: Ross vs. Leggett, 61 Mich., 445. Arrests for vagrancy without a warrant can rarely be justified: Sarah Way's Case, 41 Mich., 300. See Drennan vs. People, 10 Mich., 169.

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and all persons discharged from arrest during the month; also, the number remaining in confinement for breaches of the ordinances of the city; and the amount of all fines and fees collected by him. All money collected or received by the marshal, for fines, fees or for any services performed by him in any official capacity, unless otherwise directed by this act, shall be paid into the city treasury during the same month when received, and the treasurer's receipt therefor shall be filed with the city clerk.

SECTION 63. The marshal shall not leave the city without the consent of the mayor except in pursuit of fugitives from justice or for the arrest of persons charged with a violation of the city ordinances. In the absence of the marshal or his inability to serve, the mayor may designate any policeman or constable to perform his duties.

CITY TREASURER.

SECTION 64. The city treasurer shall have the custody of all moneys, bonds, mortgages, notes, and evidences of value belonging to the city. He shall receive all moneys belonging to and receivable by the corporation, and keep an account of all receipts and expenditures thereof. He shall pay no money out of the treasury except in pursuance of and by the authority of law, and upon warrants signed by the city clerk and countersigned by the mayor, or for school purposes by the proper officers, which shall specify the purpose for which the amounts thereof are to be paid. He shall keep an accurate account of, and be charged with all taxes and moneys appropriated, raised, or received for each fund of the city, and shall keep a separate account of each fund and credit thereto all moneys raised, paid in, or appropriated therefor, and shall pay

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SECTION 64. No money can be lawfully paid out of the city treasury except upon warrants drawn according to the charter. In McCormick vs. Bay City, 23 Mich., 457, it was held that money paid by the treasurer without such warrant, even if it were legally due could not be charged to the city by the treasurer.

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every warrant out of the particular fund constituted or raised for the purpose for which the warrant was issued, and having the name of such fund, the name of the payee, and the time of maturity indorsed thereon by the city clerk. He shall cancel such warrants when paid, and shall collect all taxes levied or assessed in the city. For the purpose of the collection and return of all taxes, and the return of property delinquent for the non-payment of taxes, and for the purpose of suits for the collection of taxes, the said treasurer, on giving the bonds or surety so required by the charter or any law of the State, shall possess all the powers and perform all the duties of the several township treasurers of this State, as prescribed by law, and shall also perform such other duties, respecting the collection and return of taxes, as this act imposes.

SECTION 65. The treasurer shall render to the city clerk on the first Monday of every month, and oftener if required, a report of the amounts received and credited by him to each fund, and on what account received; the amounts paid out by him from each fund during the preceding month, and the amount of money remaining in each fund on the day of his report; such report shall be accompanied with a certificate from the cashier of the bank in which the moneys of the city may be deposited, showing the amount of money in the bank to the credit of the city on the day on which the treasurer's report is made. He shall also exhibit to the common council, annually, on the first Monday in March, and as often and for such period as the common council shall require, a full and detailed account of the receipts and disbursements of the treasury since the date of his last annual report, classifying them by the funds to which receipts are credited and out of which such disbursements are made, and the balance remaining in each fund, which account shall be filed in the office of the city clerk and shall be published in one or more of the newspapers of the city. He shall file all

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vouchers or warrants paid by him with the city clerk with his monthly report.

SECTION 66. The city treasurer shall keep all moneys in his hands belonging to the city and to the public schools separate and distinct from his own moneys; and he is hereby prohibited from using, either directly or indirectly, the corporation moneys, warrants, or evidences of debt, or any of the school or library funds in his custody or keeping, for his own use or benefit, or that of any other person. Any violation of this section shall subject him to immediate removal from office by the common council, who are hereby authorized to declare the office vacant, and to appoint his successor, on the nomination of the mayor, for the remainder of the term.

SECTION 67. The common council may, in its discretion, contract with any bank or banks in said city, incorporated under any law of the State or United States, for the safe keeping of any moneys belonging to said city, and for the payment by such bank or banks of interest thereon, at a rate not exceeding that established by law, which interest shall be credited by the treasurer to the contingent fund of said city. The common council may prescribe the conditions relative to the making of such contract, and the securities to be given by any bank or banks for the moneys so deposited: *Provided*, That neither the city treasurer nor his bail shall be held responsible for any moneys deposited in any bank or banks pursuant to the terms of any contract made as in this section authorized.

CITY ATTORNEY.

SECTION 68. The city attorney shall be an attorney and counsellor at law, in good standing, and qualified to practice in all the courts of the State. He shall, on application of the common council or any officer of the city, furnish advice relative to all matters of law, relative to their duties, appear in behalf of the city and of all public boards thereof, in all suits, and perform such other legal

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duties as may be required by the mayor or the common council. He shall attend all meetings of the common council.

COMPENSATION OF OFFICERS.

SECTION 69. The officers of said corporation shall be entitled to receive out of the city treasury the following sums in full payment of their services: The mayor shall be paid one dollar per annum; the city clerk shall receive such sum as the common council shall determine, not exceeding eight hundred dollars per annum; the city attorney shall be entitled to receive such sum as the common council shall allow, not exceeding three hundred dollars per annum, which shall be in full for all services; and the treasurer shall be entitled to receive such sum as the common council shall allow, not exceeding one hundred dollars per annum: *Provided*, That the said treasurer shall be entitled to receive, in addition to such salary, the fees hereinafter provided for collecting the taxes to be levied and collected in said city. The marshal shall be entitled to receive such compensation, not exceeding sixty-five dollars per month, as the common council shall allow; the assessor shall receive such compensation as the common council shall allow, not exceeding two dollars and a half per day for every day actually employed in the performance of the duties of his office; the justices of the peace and the constables shall be allowed the same fees as are by law allowed to corresponding township officers; the supervisors and all other officers of said city shall be entitled to receive such compensation as the common council shall allow, not exceeding two dollars per day for every day actually employed in the performance of the duties of their respective offices: *Provided further*, That the com-

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SECTION 69. When the common council appoints a city officer to do acts outside of his official duty, he stands in the same position as a stranger and is entitled to be paid for what he does in that employment: Detroit vs. Redfield, 19 Mich., 376; McBride vs. Grand Rapids, 47 Mich., 236. And a mayor or alderman cannot be required to give his professional service to the city without compensation: Niles vs. Muzzy, 33 Mich., 61.

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mon council may increase the compensation of any officer whenever authorized thereto by a majority vote of the qualified electors of said city voting at any annual charter election, ten days notice having been given of the proposed increase.

THE COMMON COUNCIL.

SECTION 70. The legislative authority of the said city of Ann Arbor shall be vested in a common council, consisting of the president of said council and two aldermen elected from each ward.

SECTION 71. The president of the common council shall attend and preside at all meetings thereof, and shall have a vote on all questions. He shall have the appointment of all standing and special committees of the council, unless otherwise ordered when any such special committee is constituted. He shall have the power and it shall be his duty to preserve order and decorum in the council room during the sessions of the council, and in the discharge of such duty may order any disorderly person removed from the council room, and for a second violation of order by the same person at a single session of the council, the president may order his arrest and imprisonment for a period not exceeding twenty-four hours. In the absence or disability of the president, the council shall appoint one of their number to perform his duties, and for the time being he shall exercise the powers and discharge the duties of the president.

SECTION 72. The city clerk shall be clerk of the common council, but shall have no vote therein. He shall

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SECTION 70. The council is the legislative body of the city. It cannot be abolished, and the legislature cannot take away its legislative powers and confer them upon boards: Attorney Gen. vs. Common Council, Detroit, 29 Mich., 108; Lansing vs. Van Gorder, 24 Mich., 456; Park Commissioners vs. Detroit, 28 Mich., 228. The council cannot delegate to others those powers and duties confided to its judgment and discretion. Scofield vs. Lansing, 17 Mich., 437. It cannot, for instance, delegate to the street committee the power to grade a street according to their discretion: Chilson vs. Wilson, 33 Mich., 267.

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keep a full record of all the proceedings of the common council, and perform such other duties relating to his office as the common council may direct. In the absence of the clerk or his deputy from any session of the common council, the common council shall appoint one of their number to act as clerk during said session.

SECTION 73. The common council shall be the judge of the election, returns and qualifications of its own members. It shall hold regular stated meetings for the transaction of business at such times and places within the city as it shall prescribe, not less than one of which shall be held in each month. The city clerk, by the direction of the mayor or the president of the common council, or on the written request of three aldermen, shall call special meetings of the council, notice of which, in writing, shall be given to each member, or be left at his place of residence, at least two hours before the meeting.

SECTION 72. The clerk's record should be full and complete. Where the charter requires a majority vote, the number if not the names of voters on each side should be recorded: McCormick vs. Bay City, 23 Mich., 457. The record should be its own interpreter: Rood vs. School District, etc., 1 Doug., 502; Allen vs. Carpenter, 15 Mich., 25, 33. No inference can be drawn from an ambiguous record: Sherman vs. Palmer, 37 Mich., 509, and no conjecture is admissable when charter requires a record: Yelverton vs. Steele, 36 Mich., 62. Verbal evidence is not admissible to contradict the records: Stevenson vs. Bay City, 26 Mich., 44; Hall vs. People, 21 Mich., 456, although mistakes, it would seem, may be corrected: Hall vs. People, 21 Mich., 456, and omissions in the record may be supplied: Taymouth vs. Koehler, 35 Mich., 22, but evidence of oral instructions, given a street commissioner in open session are excluded: Davis vs. Jackson, 61 Mich., 530. The record may be contradicted as to the terms of an oral proposition made to the council by a citizen: Long vs. Battle Creek, 39 Mich., 323. The importance of the records being complete in every detail is emphasized in McCormick vs. Bay City, 23 Mich., 457, where the court says: "Very much of the litigation against municipal bodies is due to the carelessness of the keepers of their records."

SECTION 73. The council is the final judge of the election and qualification of its own members and its decision cannot be reviewed by the courts: People vs. Harshaw, 60 Mich., 200; Alter vs. Simpson, 46 Mich., 138; People vs. Fitzgerald, 41 Mich., 2, and a subsequent council cannot grant a rehearing of the case: Doran vs. DeLong, 48 Mich., 552,

A meeting held at any time without notice when all the members of the council are present and consenting to such meeting would seem to be legal: Hullu vs. People, 31 Mich., 323.

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SECTION 74. All meetings and sessions of the council shall be in public. A majority of the members elect shall make a quorum for the transaction of business; a less number may adjourn from time to time, and may compel the attendance of absent members in such manner as may be prescribed by ordinance; but no office shall be created or abolished, nor any tax or assessment be imposed, street, alley or public ground be vacated, real estate or any interest therein sold or disposed of, or private property be taken for public use, unless by a concurring vote of two-thirds of all the members elect; nor shall any vote of the council be reconsidered or rescinded at a special meeting, unless there be present as many members as were present when such vote was taken. No money shall be appropriated except by ordinance or resolution of the council; nor shall any resolution be passed or adopted except by a vote of the majority of all the members elect, except as herein otherwise provided.

SECTION 75. The council shall prescribe the rules of its own proceedings and keep a record on the journal thereof. All votes of appointments to office and measures incurring expense, and on the adoption of all ordinances, shall be taken by yeas and nays, and be so entered upon the journal as to show the names of those voting in the affirmative and those in the negative. Any one member of the council shall have the right to demand the yeas and nays on any question, and all votes shall be entered at large on the journal; and within one week after any meeting of the council, all the proceedings and votes taken thereat shall be published in one or more newspapers of the city.

SECTION 74. A majority of the members elect would be seven and it is necessary that seven members of the council vote for each resolution passed; McCormick vs. Bay City, 23 Mich., 463.

SECTION 75. All proceedings of the council should be in writing. They must not be left in parol: Moser vs. White, 29 Mich., 59; Powers Appeal, 29 Mich., 504. It is imperative that the yeas and nays be entered upon the record in order to sustain the proceedings of the council: Strikert vs. East Saginaw, 22 Mich., 104.

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SECTION 76. The council may compel the attendance of its members and other officers of the city at its meetings in such manner, and may enforce such fines for non-attendance as may by ordinance be prescribed, and may by ordinance prescribe punishment for any misbehavior, contemptuous or disorderly conduct by any member or any person present at any session of the council.

SECTION 77. The city attorney and city marshal shall attend all meetings of the council, and the council may require the attendance of any other city official at any session thereof.

SECTION 78. The council shall have control of the finances and of all the property, real and personal, of the city except as may be otherwise provided by law.

SECTION 79. Whenever by this act or any other provisions of law, any power or authority is vested in or duty imposed upon the corporation or council, the council may enact such appropriate ordinances as may be necessary for the execution and exercise of such power and authority, and to regulate the performance of such duty.

SECTION 80. The council may provide for the appointment of standing committees of its members, who shall perform such duties, investigate, have charge of, and report upon such matters as may be properly referred to them.

SECTION 81. The council shall cause all records of the corporation, proceedings of the council, and all books, documents, reports, contracts, receipts, vouchers, and papers relating to the finances and affairs of the city, or to the official acts of any officer of the corporation (unless

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SECTION 79. That the legislature cannot interfere with the legislative powers of the council is shown in People vs. Common Council of Detroit, 28 Mich., 228; Attorney General vs. Common Council of Detroit, 29 Mich., 108.

SECTION 80. But the council cannot delegate legislative powers to these committees. See note to Sec. 70.

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required by law to be kept elsewhere), to be deposited and kept in the office of the city clerk, and to be so arranged, filed and kept as to be convenient of access and inspection; and all such records, books and papers shall be subject to inspection by any inhabitant of the city or other person interested therein, at all seasonable times, except such parts thereof as in the opinion of the council it may be necessary for the furtherance of justice to withhold for the time being. Any person who shall secrete, injure, deface, alter or destroy any such books, records, documents or papers, or expose the same to loss or destruction with intent to prevent the contents or true meaning or import of any thereof from being known, shall, on conviction thereof, be punished by imprisonment in the State prison, not longer than one year, or by fine not exceeding one thousand dollars, or by both such fine and imprisonment, in the discretion of the court.

SECTION 82. No member of the common council shall, during the period for which he was elected, be appointed to or be competent to hold any office, the emoluments of which are to be paid from the city treasury or be paid by fees under any act or ordinance of the common council, or be bondsmen or surety on any contract or bond given to said city; but this section shall not be construed to deprive any member of any emoluments or fees to which he may be entitled by virtue of his office. Any member of the council offending against the provisions of this section, shall, upon conviction thereof, be fined not exceeding five hundred dollars, or be imprisoned in the county jail not less than one nor more than six months, or both, in the discretion of the court, and shall forfeit his office.

SECTION 83. Any person appointed to office by the mayor, by authority of this act, may be suspended by the mayor or removed by him with the consent of the majority of the members elect of the council, and the council may expel any alderman or remove from office any person

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elected thereto, except justices of the peace, by a concurring vote of two thirds of all the aldermen elect. In case of elective officers, provision shall be made by ordinance for preferring charges and trying the same, and no removal of an elective officer shall be made unless a charge in writing is preferred, and an opportunity given to make a defense thereto.

SECTION 84. To enable the council to investigate charges against any officer, or such other matter as it may deem proper to investigate, the mayor or any justice of the peace is empowered, at the request of the council, to issue subpœnas or process by warrant to compel the attendance of persons and the production of books and papers before the council or any committee.

SECTION 85. Whenever the council, or any committee of the members thereof, are authorized to compel the attendance of witnesses for the investigation of matters which may come before them, the presiding officer of the council or chairman of such committee for the time being, shall have power to administer the necessary oaths; and such council or committee shall have the same power to compel witnesses to testify as is conferred on courts of justices of the peace.

SECTION 86. The council shall audit and allow all accounts chargeable against the city, but no claim not certified to by the city official ordering the work done or the purchase made shall be received for audit or allowance, unless it shall be accompanied by an affidavit of the person presenting it that the services therein charged for have been actually performed, or the goods delivered to the city, that the sums charged are reasonable and just, and that to the best of his knowledge and belief no set-off exists, nor payment has been made on account thereof, except such as are endorsed or referred to in such account or claim. And every such account shall exhibit in detail all the items making up the amount claimed and the true

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date of each: *Provided*, That the claims of members of the board of registration, inspectors and clerks of election, and members of the board of review may be allowed on the certificate of the city clerk.

SECTION 87. Within twenty-four hours after any session of the common council, the clerk of said council shall present the proceedings of such session to the mayor, or other person performing the duties of mayor, for his approval, and he may approve the same in whole or in part, or may refuse to approve any order, resolution, paragraph or clause of said proceedings, creating any office, appropriating any money, ordering any tax or assessment, transferring any money from one fund to another, or allowing any claim. He shall return his disapproval and reason therefor, in writing, to the clerk of the council within three days, and no provision or order so disapproved shall be of any effect unless repassed by a two thirds vote of the members elect of said council, within thirty days from the time such disapproval is filed with the clerk; *Provided*, That a unanimous vote of all the members elect shall be necessary to re-pass any disapproved resolution or order for the transfer of any money from one fund to another.

GENERAL POWERS OF THE COMMON COUNCIL.

SECTION 88. The common council, in addition to the powers and duties specially conferred upon them by this act, shall have the management and control of the finances, rights, interests, buildings and all property, real and personal, belonging to the city, and make such orders and by-laws relating to the same as they shall deem proper and necessary; and further, they shall have power, within said city, to enact, make, continue, modify, estab-

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SECTION 86. The law presumes the council to investigate all claims presented to them and when the council has allowed a claim they cannot rescind their action and recover back money paid because of facts they did not know of but might have ascertained by reasonable diligence: Advertiser & Tribune Co. vs. Detroit, 43 Mich., 116.

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lish, amend and repeal such ordinances, by-laws and regulations as they may deem desirable, within said city, for the following purposes:

First. To prevent vice and immorality, to preserve public peace and good order, to organize, maintain and regulate a police of the city, to prevent and quell riots, disturbances and disorderly assemblages. to prevent the violation of the Sabbath and the disturbance of any religious congregation, or any other public meeting assembled for any lawful purpose. To license newsboys, prohibit the sale of indecent and obscene newspapers, or other indecent and obscene publications, and authorize the seizure and destruction of the same;

Second. To restrain and prevent disorderly and gaming houses and houses of ill-fame, and seize all instruments and devices used for gaming, and to prohibit all mock auctions, gaming and fraudulent practices and devices, and to regulate and restrain billiard tables and bowling alleys;

Third. To forbid and prevent the vending or other disposition of liquors and intoxicating drinks in violation of the laws of this State, and to forbid the selling or giving to be drank, any intoxicating or fermented liquors to any common drunkard, or to any child or young person, and to prohibit, restrain and regulate the sale of

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SECTION 88. To give effect to these general powers appropriate ordinances regulating their exercise must be enacted: Jackson vs. People, 9 Mich., 111. The ordinance should conform as nearly as possible to state legislation on the same subject matter. New and extraordinary remedies cannot be provided in ordinances unless the power to provide such remedies is expressly given, and all ordinances and by-laws must be reasonable: Welch vs. Stowell, 2 Doug., 332. A city can exercise only those powers expressly granted it by its charter or by necessary implication: Detroit vs. Blackeby, 21 Mich., 84, and where the charter enumerates powers which the council may render effectual by providing penal prosecutions, the specific enumeration implies an exclusion of the right to impose penalties in other cases: Grand Rapids vs. Hughes, 15 Mich., 54.

Second, The council cannot provide for the suppression of disorderly houses by destroying the buildings. It is not the building but the evil practiced in it which constitutes the offence: Welch vs. Stowell, 2 Doug., 332.

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all goods, wares, and personal property at auction, except in cases of sales authorized by law, and fix the fees to be paid by and to auctioneers;

Fourth. To prohibit, restrain and regulate all sports, exhibitions of natural or artificial curiosities, caravans of animals, theatrical exhibitions, circuses, or other public performances and exhibitions for money, except exhibitions of agricultural, educational or religious societies or associations, or local musical societies;

Fifth. To abate or remove nuisances of every kind, and to compel the owner or occupant of any grocery, tallow-chandler shop, butcher's stall, slaughter-house, glue, starch or soap factory. establiishment for rendering tallow, lard or oil, and all establishments where any nauseous, offensive or unwholesome business may be carried on, blacksmiths', coopers', cabinet makers', carpenters' and joiners' shops, and all buildings, business, and establishlishments of any kind usually classed as extra hazardous in respect to fire; tannery, stable, privy, hog-pen, sewer, or any other offensive or unwholesome house or place, to cleanse, remove or abate the same from time to time, as often as the health, comfort or convenience, or safety of the inhabitants of said city may require;

Sixth. To direct the location of all slaughter-houses, markets, stables, and buildings for storing gun-powder or other combustible or explosive substances;

SECTION 88. *Fifth*, Declaring a thing a nuisance does not make it so, if it is not a nuisance in fact: Horn vs. People, 26 Mich., 221. Obstructions in the street are not necessarily nuisances: People vs. Carpenter, 1 Mich., 273, whether they are or not is a question of fact. If the rights of a private individual or the adjacent owners merely are effected, the remedy can only be by private action: People vs. Jackson, 7 Mich., 432; Messersmidt vs. People, 46 Mich., 437. Whatever competent authority permits. cannot be treated as a nuisance: G. R. & I. R. R. vs. Heisel, 38 Mich., 62; Hawkins vs. Saunders, 45 Mich., 491. Property is not to be destroyed in abating nuisances until its destruction is lawfully ascertained to be necessary to stop the nuisance: Shepard vs. People, 40 Mich., 487. A wooden awning in front of a store is not *per se* to be treated as a nuisance: Hawkins vs. Saunders, 45 Mich., 491.

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Seventh. To regulate the buying, carrying, selling and using of gunpowder, fire-crackers or fire-works manufactured or prepared therefrom, and other combustible materials, and the exhibitions of fire-works and the discharge of fire-arms, and lights in barns, stables, and other buildings, and to restrain the making of bonfires in streets and yards;

Eighth. To prevent the encumbering of streets, sidewalks, cross-walks, lanes, alleys, bridges or aqueducts, drains or ditches in any manner whatever;

Ninth. To prevent and punish horse-racing and immoderate driving or riding in any street, or over any bridge, and to authorize the stopping and detaining any person who shall be guilty of immoderate driving or riding in any street or over any bridge in said city;

Tenth. To determine and designate the routes and grades of any railroad coming into or passing through said city, and to restrain and regulate the use of locomotives, engines and cars upon any railroad within the city;

Eleventh. To prohibit or regulate bathing in any public water, or in any open or conspicuous place, or any indecent exposure of the person in the city;

Twelfth. To restrain and punish drunkards, vagrants, mendicants, street beggars, and persons soliciting alms or subscriptions for any purpose whatever;

Thirteenth. To establish and regulate one or more pounds, and to restrain and regulate the running at large of horses, cattle, swine, and other animals, geese and poultry, and to authorize the impounding and sale of the same for the penalty incurred and the cost of keeping and impounding;

Fourteenth. To prevent, and regulate the running at

SECTION 88. *Ninth*, Driving faster than the ordinance allows is itself such an act of negligence as to make the racing parties responsible for a collision caused by it: Potter vs. Moran, 61 Mich., 60.

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large of dogs, and to impose taxes on the owners of dogs, and to prevent dog fights in the city;

Fifteenth. To prohibit any person from bringing or depositing within the limits of said city any dead carcases or other unwholesome or offensive substances, and to require the removal or destruction thereof; and if any person shall have on his premises such substances or any putrid meats, fish, hides, or skins of any kind, and shall neglect or refuse to remove the same when ordered: To authorize the removal or destruction thereof, as a public nuisance, by some officer of the city;

Sixteenth. To compel all persons to keep sidewalks in front of premises owned or occupied by them, clear from snow, ice, dirt, wood or other obstructions;

Seventeenth. To regulate the ringing of bells and the crying of goods and other commodities for sale at auction or otherwise, and to prevent disturbing noises in the streets;

Eighteenth. To appoint and prescribe the powers and duties of watchmen, and the fines and penalties for their delinquencies;

Nineteenth. To prohibit, restrain or regulate within such parts of the city as they may deem expedient, and prescribe the building, rebuilding, enlarging, repairing or placing of wooden buildings therein; to regulate and establish the line upon which buildings may be erected upon any street, lane or alley in said city, and to compel such buildings to be erected upon such line, by fine upon the owner or builder thereof, not to exceed five hundred dollars;

Twentieth. To provide for obtaining, holding, regulating and managing burial grounds, within or without the city, when established for the benefit thereof; and to regulate the burial of the dead, and to compel the keeping and return of bills of mortality.

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Twenty-first. To establish, order and regulate market places; to regulate the vending of wood, hay, meat, vegetables, fruits, fish and provisions of all kinds, and prescribe the time and place of selling the same, and the fees to be paid by butchers for license; to prohibit the sale of unwholesome meat, poultry, fish, vegetables or other articles of food or provisions; impure, spurious or adulterated wine, spirituous liquors or beer, or knowingly keeping or offering the same for sale; and to provide for and regulate the inspection of animals used for food, and the slaughter of the same: *Provided*, That nothing herein contained shall authorize the common council to restrict in any way the sale of fresh and wholesome meats by the quarter within the limits of the city;

Twenty-second. To establish, regulate and preserve public reservoirs, wells, penstocks and pumps, and to prevent the waste of water; and to authorize and empower, under such regulations and upon such terms and conditions as they may choose, the laying of water pipes in the streets and alleys of the city, for the purpose of supplying the inhabitants of said city with water; and to grant such exclusive privileges as they may deem expedient to any company organized to supply said city and its inhabitants with water; and to contract with such company to supply the city with water for fire and other public purposes;

Twenty-third. To regulate sextons and undertakers for burying the dead; cartmen and their carts, hackney carriages and their drivers, omnibuses and their drivers, scavengers, porters and chimney sweeps and their fees and compensation; and to make regulations for preventing auctions, peddling, pawnbrokerage, or using for hire carts, drays, cabs, hacks or any kind of carriage or vehicle, or opening or keeping any tavern, hotel, victualing house,

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SECTION 88. *Twenty-first.* A city may impose a license upon markets and upon those selling in the public markets: Ash vs. People, 11 Mich., 347.

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saloon or other house or place for furnishing meals, food or drink, or billiard tables or ball alleys, without first obtaining from the common council license therefor; for licensing and regulating carts, drays, cabs, hacks, and all carriages or vehicles kept or used for hire; auctioneers, peddlers, pawnbrokers, auctions, peddling, pawnbrokerage, taverns, hotels, victualing houses, saloons and other houses for furnishing meals, food or drink, and keepers of billiard tables and ball alleys not used for gaming;

Twenty-fourth. To prevent runners, stage-drivers and others from soliciting passengers and others to travel or ride in any stage, omnibus, or upon any railroad, or to go to any hotel or otherwhere;

Twenty-fifth. To make regulations for the lighting of the streets and alleys and the protection and safety of public lamps;

Twenty sixth. To provide for and regulate the numbering of the buildings upon the streets or alleys, and to compel the owners or occupants of buildings to affix numbers on the same;

Twenty-seventh. To prescribe the duties of all offi-

SECTION 88 *Twenty-third*, As to the right of the city to impose licenses see Cooley on Taxation, 2d edition, 597; Kitson vs. Ann Arbor, 28 Mich., 325; Ash vs. People, 11 Mich., 347. The courts will not review municipal discretion as to the amount of the license fees when it has not been abused. An annual license fee of $200 on the business of a pawnbroker is held legal and not an abuse of the license power: Van Baalen vs. People, 40 Mich., 258; Wolf vs. Lansing, 53 Mich., 367. A saloon is a place of refreshment and not necessarily a place for selling intoxicating liquors. An ordinance of the city of Ann Arbor requiring saloon keepers to take out a license and pay a substantial license tax is not in violation of the clause of the constitution forbidding licenses for the sale of intoxicating liquors: Kitson vs. Ann Arbor, 28 Mich., 325. In Wolf vs. Lansing, 53 Mich., 367, a license of $100 in addition to the state tax for selling intoxicating liquors was sustained by the court and held not excessive.

SECTION 88. *Twenty-fourth*, In Napman vs. Detroit, 19 Mich., 352, when an employee of a hack line had entered a depot in violation of a city ordinance, it was held that lawful arrangements made between the railroad company and hackmen to be performed on the company's premises are exempt from municipal interference, and ordinances attempting such interference are invalid.

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cers appointed by the common council, and their compensation, and the penalty or penalties for failing to perform such duties, and to prescribe the bonds and sureties to be given by the officers of the city for the discharge of their duties, and the time for executing the same in cases not otherwise provided for by law;

Twenty-eighth. To provide for the cleansing and preserving of the salubrity of the waters of the Huron river, or other streams within the limits of the city; to fill up all low grounds or lots covered, or partially covered with water, or to drain the same, as they may deem expedient;

Twenty-ninth. To prescribe and designate the stands for carriages of all kinds, which carry persons for hire, and carts and carters, and to prescribe the rates of fare and charges, and the stand or stands for wood, hay and produce exposed for sale in said city;

Thirtieth. To provide for taking a census of the inhabitants of said city, whenever they may see fit, and to direct and regulate the same;

Thirty-first. To establish a grade for streets and sidewalks and cause the sidewalks to be constructed in accordance with the same;

Thirty-second. To prescribe the duties of sealer of weights and measures, and the penalty for using false weights and measures, and all the laws of this state in relation to the sealing of weights and measures shall apply to said city, except as herein otherwise provided;

Thirty-third. To direct and regulate the construction of cellars, barns, private drains, sinks and privies; to compel the owner or occupant to fill up, drain, cleanse, alter, relay or repair the same, or to cause the same to be done by some proper officer of the corporation, and to assess the expenses thereof on the lot or premises having such cellar, barn, drain, sink, or privy thereon.

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Thirty-fourth. To provide for the protection and care of poor persons and of paupers, and to prohibit and prevent all persons from bringing or sending to the city from any other place any pauper or other person likely to become a charge upon said city, and to punish therefor; to provide by ordinance for the election or appointment of an overseer of the poor for the city, and to prescribe his duties and vest him with such authority as may be proper for the exercise of his duties, and to provide for the organization of a board of poor commissioners, who shall serve without compensation.

Thirty-fifth. To provide for and change the location and grade of street crossings of any railroad track, and to compel any railroad company or street railway company to raise or lower their rail road track to conform to street grades, which may be established by the city from time to time, and to construct street crossings in such a manner as the council may require, and to keep them in repair; also to require and compel railroad companies to keep flagmen or watchmen at all railroad crossings of streets, and to give warning of the approach and passage of trains thereat, and to light such crossings during the night; to regulate and prescribe the speed of all locomotives and railroad trains within the city; but such speed shall not be required to be less than four miles an hour, and to impose a fine of not less than five or more than fifty dollars upon the company, and upon any engineer or conductor violating any ordinance regulating the speed of trains.

ORDINANCES.

SECTION 89. The style of all ordinances shall be, "The common council of the city of Ann Arbor ordain." All ordinances shall require, for their passage, the concurrence of a majority of all the members elect. The time when any ordinance shall take effect shall be prescribed therein. Such time, when the ordinance imposes a

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penalty, shall not be less than ten days from the date of its publication, as hereinafter provided.

SECTION 90. Whenever by the provisions of this act, the common council shall be authorized to pass ordinances for any purpose, they may prescribe fines, penalties, and forfeitures for the violation of the same, not exceeding one hundred dollars, or imprisonment not exceeding ninety days or both in the discretion of the court. Such imprisonment may be in the common jail of the County of Washtenaw, in the city lock-up or in the Detroit House of Correction. The fine, penalty or imprisonment, for the violation of any ordinance, shall be prescribed therein, and during such imprisonment all such offenders may be kept at labor.

SECTION 91. On the day next after the passage of any ordinance, the clerk of the common council shall present the same to the mayor or other person performing the duties of the mayor, for his approval. No ordinance shall be of any force without the written approval of the mayor or other person performing for the time being the duties of his office, unless he omit to return it to the clerk of the common council with his objections thereto within ten days after its presentation to him in which case it shall be deemed regularly enacted. If after the return of the ordinance with the objections thereto, as aforesaid, the same shall be passed or re-enacted by a vote of two-thirds of all the members elect of the common council, the ordinance shall be deemed regularly enacted, and the time of its re-enactment shall be deemed to be the time of its passage.

SECTION 92. At the time of presenting any ordinance

SECTION 89 The omission of the enacting clause does not necessarily nullify the ordinance: People vs. Murray, 57 Mich., 396. It requires seven members of the council voting affirmatively to pass an ordinance. The ordinance must be in writing before it can be acted upon: Stevenson vs. Bay City, 26 Mich., 44. See notes to Section 75. It is indispensible that every ordinance should express the time when it shall take effect: Van Alstine vs. People, 37 Mich., 523.

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to the mayor for his approval, the clerk of the common council shall certify thereon, and also in the journal or record of the proceedings of the council, the time when the same was presented, and shall also certify thereon and in such journal or record, the time of the return of such ordinance, whether approved or with objections, and shall at the next meeting of the common council report any ordinance returned, with the objections thereto.

SECTION 93. No repealed ordinance shall be revived unless the whole or so much as is intended to be revived, shall be re enacted. When any section of an ordinance is amended, the whole section as amended shall be re-enacted.

SECTION 94. All ordinances when approved by the mayor, or when regularly enacted shall be immediately recorded by the clerk of the common council in a book to be called "the record of ordinances," and it shall be the duty of the mayor and clerk to authenticate the same by their official signatures upon such record.

SECTION 95. Within one week after the approval or final passage of any ordinance the same shall be published in one or more newspapers printed and circulated within the city, and the clerk shall, immediately after such publication, enter on the record of ordinances in a blank space to be left for such purpose under the recorded ordinance a certificate stating in what newspaper and of what date such publication was made and sign the same officially, and such certificate shall be prima facie evidence that legal publication of such ordinance has been made.

SECTION 96. In all courts having authority to hear,

SECTION 94. Failure to make the record here required does not invalidate the ordinance: Stevenson vs. Bay City, 26 Mich., 44.

SECTION 95. Publication is necessary to the validity of an ordinance: Van Alstine vs. People, 37 Mich., 523. The same case also decides that where the ordinance requires to be published two weeks, publication in two issues of a weekly paper will not be legal if it is shown that less than two weeks' notice is actually given.

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try, or determine any matter or cause arising under the ordinances of said city, and in all proceedings in said city relating to or arising under the ordinances, or any ordinance thereof, judicial notice shall be taken of the enactment, existence, provisions and continuing force of the ordinance of the city; and whenever it shall be necessary to prove any of the laws, regulations or ordinances of said city, or any resolution adopted by the common council, the same may be read in all courts of justice and in all the proceedings: *First*, from a record thereof kept by the city clerk in the record of ordinances; *Second*, from a copy thereof, or of such record thereof, certified by the city clerk under the seal of the city; *Third*, from any volume of ordinances purporting to have been written or printed by the authority of the council.

ENFORCEMENT OF ORDINANCES.

SECTION 97. The corporation of the city of Ann Arbor shall be allowed to use the common jail of the county of

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SECTION 96. Unless required by statutes courts cannot take judicial notice of municipal ordinances unless proved before them: Motz vs Detroit, 18 Mich., 495. The state law places ordinances on the same footing as general laws, so far as relates to the proving of their contents: Howell's Statutes, Sec. 7527. An ordinance may be proved from a printed copy thereof: Napman vs. People, 19 Mich., 352. See Van Alstine vs. People 37 Mich., 523.

SECTION 97. Violation of city ordinances are not criminal offenses, nor are prosecutions under them criminal causes: Mixer vs. Supervisors of Manistee, 26 Mich., 422. Cases under city ordinances cannot be taken to the supreme court by writ of error or exceptions but must come up on certiorari: People vs. Jackson, 8 Mich., 110, 262. But after voluntary payment of fine the proceedings cannot be reviewed on certiorari: People vs. Leavitt, 41 Mich., 470. Prosecutions for violation of city ordinances are penal actions on the part of the city and must be brought in the name of the city: Cooper vs. People, 41 Mich., 403. A city is not bound by neglect of its officers in enforcing its ordinances: Detroit vs. Fort Street & Elmwood Railway Company, 41 Mich., 413. An injunction will not lie to restrain the threatened violation of an ordinance, unless the act threatened to be done, would if carried out, be a nuisance: St. Johns vs. McFarlan, 33 Mich., 72. Expenses for prosecuting and punishing violations of city ordinances are city and not county charges and even in the absence of the express provision of the charter, the city is liable to pay for them. The right to use the jail does not charge the county with expense: Mixer vs. Supervisors of Manistee, 26 Mich., 422.

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Washtenaw for the imprisonment of all persons liable to imprisonment under the ordinances of said city, and all persons committed to jail by any justice of the peace for a violation of any such ordinance shall be in the custody of the sheriff of the county, who shall safely keep the person so committed until lawfully discharged, as in other cases. Whenever, by the terms of any ordinance of said city, it is provided that any person convicted of a violation thereof, shall be imprisoned, said person may be confined in the county jail of the county of Washtenaw, a city lock up, or in the House of Correction in the City of Detroit, in the discretion of the court: *Provided*, That the said city of Ann Arbor shall pay all the expenses of imprisoning persons charged with the violation of city ordinances.

SECTION 98. Whenever any person shall be charged with having violated any of the by-laws or ordinances of the city, by which the offender is liable to imprisonment, any justice of the peace residing in said city, to whom complaint shall be made, in writing, and on oath, shall issue a warrant directed "to the city marshal, policeman or any constable of the City of Ann Arbor," commanding him forthwith to bring the body of such person before him to be dealt with according to said laws or ordinances of the city, and the marshal or other officer to whom said warrant shall be delivered for service is hereby authorized and required to execute the same, in any part of the state where such offender may be found, under the penalties which are by law incurred by sheriffs and other officers for neglecting or refusing to execute other criminal process and the proceedings relating to the arrest and custody of the offender pending trial, the pleadings and all proceedings upon the trial of such cause, and the rendition of judgment and the execution thereof shall, except as otherwise provided by this act, be governed by, and conform as nearly as may be to the provisions of law relating to proceedings in criminal causes cognizable by a justice of the peace under the general laws of this state.

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SECTION 99. The expenses of apprehending, examining and committing offenders against any law of this state, in the said city, and of their confinement, shall be audited and allowed and paid by the supervisors of the county of Washtenaw, in the same manner as if such expenses had been incurred in any town of said county.

SECTION 100. All actions against the city of Ann Arbor shall be commenced by summons, which shall be served upon the city clerk at least six days before the return day thereof, by giving him a copy of said summons with the name of the officer serving the same indorsed thereon; or in case of the absence of said city clerk from the city, then by leaving such copy with the mayor indorsed as aforesaid: *Provided*, That no suit shall be maintained against the city, until the claim whereon the same is founded shall have been presented to the common council of said city, duly verified, at a regular meeting of the same, for allowance, and until after one regular meeting of the common council shall have intervened.

SECTION 101. In all suits in which the city of Ann Arbor shall be a party, or shall be interested, no inhabitant of said city shall be deemed incompetent as an officer, witness or juror, on account of his interest in the event of such suit or action: *Provided*, Such interest be such only as he has in common with the other inhabitants of said city. *And provided further*, that it shall not be necessary to pay or tender any fees to any witness subpœnæd on the part of the city. But such witness shall be bound to attend, and shall be liable to attachment the same as if fees had been tendered or duly paid to him. The fees of witnesses shall be allowed by the common council on the certificate of the justice or court before whom they appeared.

SECTION 100. The provision that a claim must be presented for auditing and allowance was held good in Detroit vs. Michigan Paving Company, 38 Mich., 358, and the provision applies to a claim against the city to have a tax refunded that has been paid under protest: Mead vs. Lansing, 56 Mich., 601.

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SECTION 102. In all trials before any justice of the peace of any person charged with a violation of any ordinance of the said city, either party shall be entitled to a jury of six persons; and all the proceedings for the summoning of such jury and in the trial of the cause shall be in conformity, as near as may be, with the mode of proceeding in similar cases before justices of the peace; and in all cases, civil and criminal, the right of appeal from the justices' court to the circuit court of Washtenaw county shall be allowed, and the person appealing shall enter into a recognizance, conditioned to prosecute the appeal in the circuit court, and abide the order of the court therein, or such other recognizance as is or may be required by law in appeals from justices' courts in similar cases: *Provided*, If any judgment in any action shall be rendered against the city by any justice of the peace, such judgment may be removed by appeal to the circuit court in the same manner and with the same effect as though the city were a natural person, except that no bond or recognizance to the adverse party shall be necessary to be executed on behalf of the said city.

SECTION 103. All fines imposed by any ordinance of said city may be sued for by the city attorney in the name of the corporation before any justice of the peace of said city; and whenever any fine shall be imposed by any justice of the peace for a violation of any ordinance of said city, it shall be the duty of the justice forthwith to issue execution to the marshal of the city, commanding him to collect of the goods and chattels of the person so offending, the amount of such fine, with interest and costs, and for want of goods and chattels wherewith to satisfy the same, that he take the body of the defendant and commit him to the common jail of the county, or to the House of Correction in the City of Detroit, in the discretion of the court, to be safely kept by the officer in charge thereof until said

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SECTION 103. See Sheldon vs. Hill, 33 Mich., 171.

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defendant be discharged by due course of law; and the defendant shall remain imprisoned until the execution, with all the costs and charges thereon shall be paid, or he be discharged by due course of law: *Provided*, That the common council may remit such fine, in whole or in part, if it shall be made to appear that the person so imprisoned is unable to pay the same.

SECTION 104. All fines, penalties or forfeitures recovered before any of said justices for a violation of the ordinances of said city shall, when collected, be paid into the city treasury; and each of said justices shall report, on oath, to the common council, on the first Mondays of January, April, July and September, during the term for which he shall perform the duties of such justice, the number and name of every person against whom judgment shall have been rendered for such fine, penalty or forfeiture, and all moneys so received, or which may be in his hands, collected on such fine, penalty or forfeiture shall be paid into the city treasury on the first Monday of the months above named, during the time such justice shall exercise the duties of said office, and for any neglect in this particular he may be suspended or removed, as hereinbefore provided.

SECTION 105. All persons being habitual drunkards, destitute, and without any visible means of support, and who, being such habitual drunkards, shall abandon, neglect, or refuse to aid in the support of their families, being complained of by such families, all able-bodied and sturdy beggars who may apply for alms or solicit charity, all persons wandering abroad, lodging in watch-houses, outhouses, market-places, sheds, stables, or uninhabited dwellings, or in the open air, and not giving a good account

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SECTION 104. Fines collected under the city ordinances belong to the city and not the county: Fennell vs. Bay City, 36 Mich., 186. The courts draw a clear distinction between violations of the ordinances and violations of the charter. The charter is a state law and fines for its violation go into the county treasury: Wayne County vs. Detroit, 17 Mich., 390.

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of themselves, all common brawlers and disturbers of the public quiet, and all persons who beg from door to door or in the streets of said city, shall be deemed vagrants, and may upon conviction before any justice of the peace in said city, be sentenced to confinement in the county jail of said county, the city lock-up, or the House of Correction in the City of Detroit, for such time, not exceeding sixty days, as the common council shall by ordinance prescribe.

SECTION 106. All persons who shall have actually abandoned their wives or children in said city, or may neglect to provide according to their means, for their wives or children, are hereby declared to be disorderly persons, within the meaning of chapter fifty-five of the compiled laws of eighteen hundred and seventy-one, as amended, and may be proceeded against in the manner directed by said title; and it shall be the duty of the magistrate before whom any such person may be brought for examination, to judge and determine from the facts and circumstances of the case whether the conduct of said person amounts to such desertion, or neglect to provide for his wife or children.

POLICE.

SECTION 107. The common council of said city may provide by ordinance for a police force, and for the appointment by the mayer, by and with the consent of the council, of such numbers of policemen or nightwatchmen as they may deem necessary for the good government of the city, and for the protection of the persons and property of the inhabitants; and may authorize the mayor to appoint special policemen from time to time, when in his judgment the emergency or necessity may so require, and may provide for and appoint subordinate officers for the police and nightwatchmen.

SECTION 108. The common council may make and establish rules for the regulation and government of the

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police, prescribing and defining the powers and duties of policemen and nightwatchmen, and shall prescribe and enforce such police regulations as will most effectually preserve the peace and order of the city, preserve the inhabitants from personal violence, and protect public and private property from destruction by fire and unlawful depredation. And the mayor may, whenever he shall deem it necessary for the preservation of peace and good order in the city, appoint and place on duty such number of temporary policemen as in his judgment the emergencies of the case may require; but such appointments unless made in accordance with some ordinance or resolution of the common council, shall not continue longer than three days.

SECTION 109. The city marshal, as chief of police under the direction of the mayor, shall have the superintendence and direction of the policemen and nightwatchmen, subject to such regulations as may be prescribed by the common council.

SECTION 110. It shall be the duty of the police and nightwatchmen and officers of the force, under the direction of the mayor and chief of police, and in conformity with the ordinances of the city, to suppress all riots, disturbances and breaches of the peace, to apprehend any and all persons in the act of committing any offense against the laws of the State or any ordinance of the city, and to take the offender forthwith before the proper court or magistrate to be dealt with for the offense; to make complaint to the proper officers and magistrates of any person believed to be guilty of the violation of the ordinances of the city or the penal laws of the state, and at all times diligently and faithfully to enforce all such laws, ordinances and regulations for the preservation of good order and the public welfare as the council may ordain, and to serve all process issued under any city ordinance

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SECTION 110. As to arrests without process see note to Sec. 61.

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and directed to them for service, and for such purposes the chief of police and every policeman and nightwatchman shall have all the powers of constables and may arrest upon view and without process any person in the act of violating any ordinance of the city, or in the commission of any offense against the laws of the State.

SECTION 111. The mayor may suspend any policeman or nightwatchman for misconduct, or other sufficient cause, and with the consent of the common council may remove from office any policeman at any time. When employed in the performance of duty the policeman shall receive such compensation therefor from the city as the common council may prescribe.

CEMETERIES.

SECTION 112. Said city may acquire, hold, and own such cemetery or public burial place or places, either within or without the limits of the corporation as in the opinion of the common council shall be necessary for the public welfare and suitable for the convenience of the inhabitants. The common council may prohibit the interment of the dead within the city, or may limit such interments therein to such cemetery or burial place as they may prescribe; and may cause any bodies buried within the city in violation of any rule or ordinance made in respect to such burials, or when public policy shall demand, to be taken up and buried elsewhere.

SECTION 113. The common council may, within the limitations in this act contained, raise and appropriate such sums as may be necessary for the purchase of cemetery grounds, and for the improvement, adornment, protection, and care thereof.

SECTION 114. The common council may pass and enforce all ordinances necessary to carry into effect the provisions herein contained, and to control and regulate such cemetery or burial place or improvement thereof, and to protect the same and the appurtenances thereof from in-

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jury, and to punish violations of any lawful orders and regulations.

SECTION 115. The common council shall have power also to pass all ordinances deemed necessary for the preservation and protection of any cemetery or burial place within the city, belonging or under the control of any church, religious society, corporation, company or association, and for the protection and preservation of the tombs, monuments, and improvements therein and the appurtenances thereof.

POUNDS.

SECTION 116. The common council may provide and maintain one or more pounds within the city, and may appoint pound-masters, prescribe their powers and duties, and fix their compensation; and may authorize the impounding of all animals, geese and other fowls found in the streets or otherwise at large or tied or staked in such streets for the purpose of grazing, contrary to any ordinance of the city; and if there shall be no pound or pound-master, they may provide for the impounding of such animals, geese and fowls, by the city marshal, in some suitable place under his immediate care and inspection, and may confer on him the powers and duties of pound-master.

SECTION 117. The common council may prescribe the fees for impounding, and the amount or rate of expenses for keeping, and the charges to be paid by the owner or keeper of the animals, geese and fowls for the payment of such fees, expenses and charges, and for the penalties incurred, and may impose penalties for rescuing any animal or thing impounded.

SECTION 116. The council may provide for the sale of animals impounded in violation of an ordinance prohibiting the running at large of such animals: Grover vs. Huckins, 26 Mich., 476. In the same case it is decided that a pound master may bring replevin to regain possession of animals rescued from the pound.

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PUBLIC BUILDINGS, GROUNDS AND PARKS.

SECTION 118. Said city may acquire, purchase and erect all such public buildings as may be required for the use of the corporation, and may purchase, acquire, appropriate and own such real estate as may be necessary for public grounds, parks, markets, public buildings, and all other purposes necessary or convenient for the public good, and the execution of the powers conferred by this act; and such buildings and grounds or any part thereof may be sold, leased, mortgaged, and disposed of as occasion may require.

SECTION 119. When the common council shall deem it for the public interest, grounds and buildings for workhouses, hospitals, pest-houses, cemeteries, waterworks, and other necessary public uses may be purchased, erected and maintained either within the city limits or not exceeding three miles beyond the same; and they shall have authority to enforce over such lands, buildings and property, whether within or without the city, such ordinances and police regulations as may be necessary for the care and protection thereof, and for the management and control of the persons kept or confined in such workhouses or hospitals.

SEWERS, DRAINS AND WATER-COURSES.

SECTION 120. The common council may establish, construct and maintain sewers and drains whenever and wherever necessary, and of such dimensions and materials, and under such regulations as they may deem proper for the drainage of the city; and private property or the use thereof, may be taken therefor in the manner prescribed in this act for taking property for public use; but in all cases where the council shall deem it practicable, such

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SECTION 118. The power to purchase and hold land beyond the corporate limits of the city can be exercised only by authority of the state: Mayor vs. Park Commissioners of Detroit, 44 Mich., 602.

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sewers and drains shall be constructed in the public streets and grounds and at public expense.

SECTION 121. Whenever the council shall deem it necessary for the public health they may require the owners and occupants of lots and premises to construct private drains therefrom to connect with some public sewer or drain, thereby to drain such lots and premises, and to keep such private drains in repair and free from obstruction and nuisance; and if such private drains are not constructed and maintained according to such requirements, the common council may cause the work to be done at the expense of such owner or occupant, and the amount of such expense shall be a lien upon the premises drained, and may be collected by special assessment to be levied thereon; the common council shall have the power to compel the use of dry earth closets by the owners and occupants of lots and premises, enforce the use of the same

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SECTION 120. In Dermot vs. Detroit, 4 Mich., 435, the court says: "The powers granted * * * for the construction of sewers involve the exercise of discretion on the part of municipal authorities, and should be employed for the benefit of the public at large and not for the private convenience or advantage of individuals; nor are the officers of a municipal corporation justified in the exercise of those powers except in reference to the public demands. The sewers are built as well for sanitary purposes as for drainage for the benefit of the public at large; and the city owes no legal duty or obligation to individuals in their construction, maintenance and repair." In this case it is held that a city is not liable to a private individual for the defective construction of a sewer. The city is not obligated to furnish drainage for an individual. But the city is liable for damages if a sewer is so constructed as to flood private premises with water which otherwise would not have flowed there: Ashley vs. Port Huron, 35 Mich., 296. And a city cutting ditches in such a way as to cast and maintain water on private property would be liable for the continuance of the nuisance: Pennoyer vs. Saginaw, 8 Mich., 534. Lot owners are not entitled to compensation for the use of abutting street for the construction of sewers: Warren vs, Grand Haven, 30 Mich., 24. The sewers of a city are the private property of the city in which the outside public have no interest as they have in public highways. Hence the city is liable for accidents to persons lawfully using the highways caused by negligence during the construction of the works even though the works are constructed by a contractor who is bound by his contract to keep the excavations fenced in: Detroit vs. Corey, 9 Mich., 165. The city may provide an outlet for sewerage beyond the city limits: Coldwater vs. Tucker, 36 Mich., 474.

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by ordinance, and provide by ordinance for the removal of the contents thereof.

SECTION 122. The owners or occupants of lots and premises shall have the right to connect the same at their own expense, by means of private drains, with the public sewers and drains, under such rules and regulations as the common council shall by ordinance prescribe.

SECTION 123. The common council may charge and collect annually from persons whose premises are connected by private drains with the public sewers, such reasonable sum, not exceeding two dollars per year, as they may deem just, in proportion to the amount of drainage through such private drains, and such charges shall be a lien upon the premises, and may be collected by special assessment thereon, or otherwise.

SECTION 124. Such part of the expenses of building sewers, providing ditches and improving water courses as the council shall determine, may be defrayed by special assessment upon the lands benefited thereby in proportion to such benefits.

SECTION 125. The common council may enact such ordinances as may be necessary for the protection and control of the public drains and sewers and to carry into effect the powers herein conferred in respect to drainage of the city.

STREETS, SIDEWALKS AND PUBLIC IMPROVEMENTS.

SECTION 126. The common council shall be the com-

SECTION 123. No obligation of the city to keep sewers in repair is created by charging persons for the right to connect with them: Dermot vs. Detroit, 4 Mich., 435.

SECTION 124. It is proper to defray the expense of constructing sewers by special assessments in sewer districts: Warren vs. Grand Haven, 30 Mich., 24. Such assessments must be levied according to actual or public benefits; if levied otherwise, the assessment is unlawful: Thomas vs. Gain, 35 Mich., 155. So assessments levied according to frontage or to the superficial area of the abutting lots cannot be sustained: Thomas vs. Gain, 35 Mich., 155; Warren vs. Grand Haven, 30 Mich., 24.

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missioners of highways for said city, and shall have all the powers given by statute to highway commissioners, so far as applicable, except as in this act otherwise provided; and shall have the care, supervision and control of the highways, streets, bridges, lanes, alleys, parks and public grounds therein, and of keeping, preserving, repairing, improving, cleansing and securing of such highways, bridges, lanes, alleys, parks and public grounds. The common council shall have power by ordinance to regulate the time and manner of working upon the streets; to provide for grading and paving the same; to prevent the obstruction or incumbering of any of the streets, lanes, alleys, sidewalks or public grounds in said city; to provide for the erection, preservation and maintenance of lamp posts and lamps in said streets, and to provide for lighting the same; to provide for the planting and protection of shade trees along the sides of the streets, and on the public grounds in said city, and to keep such public grounds in

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SECTION 126. The streets of a city are public highways designed for the benefit of all persons desiring to travel upon them: Detroit vs. Blackeby, 21 Mich., 84, 106. A highway is a way over which all the people of the State have a right to travel: People vs. Jackson, 7 Mich., 432. A street includes the whole width of public way, and while it is customary to set apart a portion for foot passengers it is not necessary, and the whole matter is in the control of the council: Brevoort vs. Detroit, 24 Mich., 322. The court in, Horn vs. People, 26 Mich., 221, 223 says, all "highways are such solely by municipal law which may establish, regulate and destroy them at all times." To establish a public highway in any city plat there must be an offer to dedicate the lands and an acceptance by the public: Field vs. Manchester, 32 Mich., 279; Detroit vs. Detroit & Milwaukee R. R. Co., 23 Mich., 209; Buskirk vs. Strickland, 47 Mich., 389; County of Wayne vs. Miller, 31 Mich., 447. User by citizens is not enough to constitute an acceptance which must be by the proper municipal authorities: Baker vs. Johnston, 21 Mich., 319. The acceptance must be made within a reasonable time: Field vs. Manchester, 32 Mich., 279; Cass Supervisors vs. Banks, 44 Mich., 467. See note to Howell's Statutes sections 1473 and 1474. An alley is not a high way in the proper sense of the term. It is a way subject to a modified supervision, liable to be used for drainage, etc., under city regulations, but it is intended only for the convenience of adjacent property and not for general use like streets: Paul vs. Detroit, 32 Mich., 108.

The council, under the power to control the streets has no right to grant their exclusive use to individuals: People vs. Carpenter, 1 Mich., 294, and it cannot authorize a street to be used for a railroad track without compensa-

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good condition; to lay out, open and repair streets and alleys, and the same to alter and vacate, and to alter and vacate those already laid out.

SECTION 127. Whenever the common council shall be applied to in writing by ten or more freeholders of said city to lay out, establish, open, alter or discontinue any street, common, lane, alley, sidewalk, highway or watercourse, or to build or vacate any bridge, said common council shall give notice thereof to the owners, occupants or persons interested, or his or their agent or representative, by personal service, or by posting up notices in five or more public places in the city, stating the time and place when and where the common council will meet to consider the same, which notice shall describe the street, lane, common, alley, sidewalk, watercourse or bridge proposed to be laid out, altered, opened, established or discontinued, built or vacated, which notice shall be posted at least ten days before the time of meeting. If, after

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tion to adjacent owners: Grand Rapids and Indiana R. R. Co. vs. Heisel, 47 Mich., 393.

The city is liable for injuries caused by the streets being out of repair. The city must look after defects in the streets and it is negligence to allow a hole to remain in the street even though the immediate neighbors had never had their attention called to it: Grand Rapids vs. Wyman, 46 Mich., 516. Nobody can deprive the individual of the right to travel over a street by putting a road out of repair or neglect of duty in repairing it: Maltby vs. Chicago and West Mich. R. R. Co., 52 Mich., 108. But the want of repair must be the immediate cause of the injury: Agnew vs. Corunna, 55 Mich., 428. The liability of the city to persons injured by reason of defective streets, bridges, sidewalks, crosswalks or culverts is fixed by Act No. 264 of the Public Acts of 1887, which abrogates the common law liability and previous laws upon the subject. The permission of the city given in an ordinance to use a certain street for coasting does not make the city liable for any injuries resulting from coasting. Parties injured have their right of action against the person inflicting the injury: Burford vs. Grand Rapids, 53 Mich., 98.

The council has discretionary power in fixing grades. Adjoining property owners cannot collect damages from the city by reason of a change of grade of the streets, even though buildings had been previously erected with reference to the established grade: Pontiac vs. Carter, 32 Mich., 65; Detroit vs. Beckman, 35 Mich., 296. But the city cannot grade its streets in such a way that the embankment will rest upon the land of an individual without compensation for damages to his land: Vanderslip vs. Grand

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hearing the persons interested who may appear before them, the common council shall determine to lay out, alter or discontinue any street, lane or alley, or build or vacate any bridge, they may proceed to obtain a release of the right-of way for the proposed street, lane or alley or of the damages accruing to abutting owners in case of a discontinuance, or because of the building or vacating any bridge, by gift or purchase. If the terms of such release shall not be agreed upon, it shall be lawful for the mayor, or in case the mayor shall be absent, for the city clerk to apply to any justice of the peace of said city for the appointment of a jury of twelve freeholders of the county to appraise the damages thereon to such persons as shall not have released all claim for damages or agreed with the common council on the price to be paid by reason of the establishing, laying out, opening, altering or discontinuing such street, common, lane, alley, sidewalk, highway or water-

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Rapids (decided by Mich. Supreme Court in February 1889.) The grade can be raised without compensation to the adjoining property owners in building a bridge over a railroad track, if the city has power to construct such a bridge, but the construction of such a bridge is not implied from the power to grade streets; Schneider vs. Detroit (decided by Mich. Supreme Court in 1888.) The council cannot delegate the power of fixing the grade of a street to a committee or others: Chilson vs. Wilson, 38 Mich., 267.

A street or alley must be opened for public use before a city ordinance can punish the obstruction of it: Jackson vs. People, 9 Mich., 111; Beecher vs. People, 38 Mich., 289. The land owners adjacent to a cul de sac have the right to close it: Tillman vs. People, 12 Mich., 401. "Encroaching," on the highway is inclosing a portion of it by walks or fences or occupying it by buildings; "obstructing" the highway is the placing of impediments in the street so as to make its passage difficult or dangerous: Grand Rapids vs. Hughes 15 Mich.. 54. The title to land can not be tried in a suit for violation of a city ordinance: Beecher vs. People, 38 Mich., 289; Horn vs. People, 26 Mich., 221. Nor can the city remove obstructions from land dedicated to public use as a street, but held adversely to the public: Bay County vs. Bradley, 39 Mich., 163; Grand Rapids vs. Whittlesey, 31 Mich., 109. The city cannot determine for itself the rights of the public in a case of disputed encroachment. When a person is in peaceable possession of land under color and claim of right it is not consistent with legal policy to allow him to be forcibly ejected without legal process: Sheldon vs. Kalamazoo, 24 Mich., 383. See Clark vs. Lake St. Clair and New Up River Ice Company, 24 Mich., 508.

The law favors the planting and preservation of shade trees. If they

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course, or building, or vacating any bridge. Upon the receipt of such application, said justice shall make a list of twelve disinterested freeholders residing within the county, and shall issue venire, under his hand, directed to the marshal of said city, or any constable of said county, commanding the officer therein named to summon the persons named in said list to be and appear at his office on some day to be named therein, not less than six days nor more than twelve days from the time of the issuing the same, to serve as jurors to appraise the damages occasioned by taking the property described in such application for the purpose of such street, common, lane, alley, sidewalk, highway, watercourse or bridge, or for discontinuing the same; and if all the jurors shall not appear, the said justice shall cause a sufficient number of talesmen to be summoned to make a full jury. The jurors shall be sworn by such justice to appraise the damages occasioned by taking the property described in such application for the purpose aforesaid, or by any discontinuance. They shall proceed to view the premises described, and shall, within five days thereafter, make returns to the said justice in writing, signed by them, of their doings, which shall state the amount of damages awarded, if any, to whom payable, if known, and a statement of the time spent by them for that purpose. which return shall be certified by said justice and filed in the office of the clerk. Such jurors shall be entitled to receive one dollar per day and fifty cents for each half day, and six cents a mile for each mile actually traveled, and the justice and the marshal or constable each one dollar for their fees; and the award of said jury shall be final and conclusive. The damages which shall have been awarded as heretofore provided, or which shall have been

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are in a highway and must be removed, notice must be given to the owner of the adjacent land and a reasonable time given him to remove them. When a street commissioner acts on his own judgment in ordering the trees removed, he must be prepared to justify his action by showing that they were an obstruction and injury to the highway: Clark vs. Dasso, 34 Mich., 86.

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contracted to be paid by said common council, as in this section provided, and the fees and charges lawfully incurred shall be levied and collected in said city, and shall be paid on the order of the common council as the other city charges, and such order for damages shall be delivered or tendered to the person or persons in whose favor such award of damages shall be made, if known, and residents of said city, before such street, lane or alley shall be opened or used: *Provided*, The parties in whose favor an award of damages shall be made are unknown or be non-residents, it shall be sufficient to make award of damages to the unknown owner or owners, or non-resident owner or owners of the parcel of land taken, describing it as the parcel through which the street, lane, alley, sidewalk, bridge or highway may run, and the unknown parties or

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SECTION 127. The right to take property for public use is given by the constitution: Const. Art. 15, Sec. 15; Art. 48, Sec. 2. Before such property can be taken it must appear that the taking is necessary for the public use for which it is designed, and the taking can only be on the condition of making just compensation therefore: Sheldon vs. Kalamazoo, 24 Mich., 383; Detroit vs. Beckman, 34 Mich., 126. The amount of the compensation must be determined by the jury, the verdict of which must be unanimous: Paul vs. Detroit, 32 Mich., 108; Powers Appeal, 29 Mich., 504; Campau vs. Detroit, 14 Mich., 283; Hinchman vs. Detroit, 9 Mich., 103. The proceedings must be in strict conformity with the statute and every provision bearing on the rights of the parties to be effected must be observed: People vs. Brighton, 20 Mich., 57; Specht vs. Detroit, 20 Mich., 172; Powers Appeal, 29 Mich., 504. Personal service of the notices of street opening is necessary when such service can be had within the municipality: Kundinger vs. Saginaw, 59 Mich., 355. This case takes up many questions arising under this section, and decides that a juror who is interested in having a street opened on account of some special gain or convenience may be challenged for cause; it is not necessary for the justice to make affidavit that he is not interested in the street; the right to appeal is not necessary to the validity of this section; the same jury may condemn land belonging to several persons if necessary for the opening of the street as it is not contemplated that more than one jury shall be called upon to determine the necessity of the street. Surplusage in the notice given will not vitiate it: Shepard vs. Gates, 50 Mich., 495. But the description of the proposed route must not be uncertain: Blodgett vs. Whaley, 47 Mich., 469. Absence of the proof of notice is fatal: Blodgett vs. Whaley, 47 Mich., 469; Granger vs. Brockway, 40 Mich., 165. It is indispensible that the jury should be impartial, and the city being one of the parties it would be highly objectionable if not fatal to the proceedings if the city attorney should counsel the jury or assist in making their report: Paul vs. Detroit, 32 Mich., 108.

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non-residents shall be entitled to receive their orders as aforesaid upon proof to the common council of their ownership of said property so appropriated for the public use: *Provided*, That no second application shall be made for the same purpose within twelve months.

SECTION 128. When the damages or compensation aforesaid shall have been paid or tendered to the person entitled thereto, or an order on the city treasury for the amount of such damages shall have been executed and delivered or tendered to such person or persons, if known, and residents of said city, said common council shall then give notice to the owner or occupant of the land through or over which any such highway, street, lane, alley or common, sidewalk, watercourse or bridge shall have been laid out, altered, established or built, or if such owner or occupant shall not be known, or be non-resident, then by posting such notices in three public places in the ward or wards in which said property shall be situated, and require him, within such time as they shall deem reasonable, not less than thirty days after giving such notice, to remove his fence or fences; and in case the owner shall neglect or refuse to remove his fence or fences within the time specified in such notice, the said common council shall have full power and it shall be their duty to enter, with such aid and assistance as shall be necessary, upon the premises and remove such fence or fences and open the above highway, street, lane, alley, sidewalk or watercourse without delay after the time specified in such notice shall have expired: *Provided*, That in the rural districts of said city no person shall be required to remove his fence or fences between the first day of May and the first day of November.

SECTION 129. No person shall be deemed to have gained any title as against the city by lapse of time, to any street, lane, alley, common or public square heretofore laid out or platted by the proprietors of said city, or

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any part thereof, by reason of encroachment or inclosure of the same.

SECTION 130. The common council shall have power to assess and levy by a tax the expenses of making, grading, paving, opening, widening and repairing streets, lanes and alleys, and of putting curbstones, gutters and culverts therein; of grading, paving or planking, repairing and renewing sidewalks, of draining low lands, of making drains and sewers and other local improvements upon the lots, premises and subdivisions thereof, which are in front of or adjoining such streets, sidewalks, drains, sewers and other improvements, or upon lots and premises which in the opinion of the common council are most benefitted thereby, or by a general tax, as they may deem proper; and the common council shall have the power to make all by-laws and ordinances relative to the mode of assessing, levying and collecting such taxes: *Provided*, That the common council in providing for the expense of grading and paving streets, lanes and alleys, may include the necessary cross walks, gutters, curbing and ballasting, and shall apportion such expense upon a local assessment district to be constituted of the lots or premises fronting upon that part of the street or alley proposed to be paved, or constituted of lots and premises fronting upon such improvements, and such other lands as in the opinion of the common council may be benefitted by such improvement. When such assessment is to be made upon lots or premises

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SECTION 130. Special assessments upon adjacent lots and property benefited to defray the expense of public improvements are constitutional, but every requirement of the statute must be strictly complied with: Williams vs. Mayor, 2 Mich., 560. It is competent to assess the cost of local improvements upon the property deemed benefited thereby in proportion to the benefits: Hoyt vs. East Saginaw, 19 Mich., 39. When a local assessment district is made, the council must define the district. This duty cannot be delegated by the council to others: Scofield vs. Lansing, 17 Mich., 57; Hoyt vs. East Saginaw, 19 Mich., 39. Local assessments may be apportioned according to frontage under legislation which permits that method to be followed: Sheley vs. Detroit, 45 Mich., 431. As to assessment districts for street opening see Rentz vs. Detroit, 48 Mich., 544.

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in proportion to their frontage upon such improvement, if from the shape or size of any such lots or premises an assessment thereon in proportion to its frontage would be unjust and disproportionate to the assessments upon other lots, the common council may assess such lots for such number of feet frontage as in their opinion will be just; and said council may direct a just portion of such assessment to be paid from the general street fund: *Provided, further*, That no such assessment for the pavement of any street or alley shall be made or collected other than by general tax, unless upon the application in writing for such pavement signed by a majority of all the owners or occupants of the real estate which may be subject to assessment for such pavement.

SECTION 131. The common council shall have power to assess and collect from every male inhabitant of said city over the age of twenty-one years, except paupers, idiots, and lunatics, and all persons fifty years old and over, a list of whom shall be made out by the assessor at the time of making the annual assessment rolls, an annual capitation or poll tax, not exceeding one dollar, and they may provide by ordinance for the collection of the same, provided that any person assessed for a poll-tax may pay the same by one days labor upon the streets, under the direction of the street commissioners, and the money raised by poll tax or labor in lieu thereof shall be expended or performed in the respective wards where the person so taxed shall reside.

SECTION 132. Whenever the common council shall deem it expedient to construct, repair, or renew any sidewalks within the limits of said city, they may, by ordinance or otherwise, require the owner of any lot or premises adjoining said street to construct such sidewalk or repair or renew the same in front of his or her lot or premises, in accordance with the provisions of this act. The common council may, by ordinance or otherwise, under

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such penalty or penalties as they may prescribe, require the owners or occupants of lots or premises in said city, or in any specified part thereof, to grade, construct, repair and renew sidewalks adjoining their respective premises in such manner as the common council may direct. If the owner or occupant of any lot or premises, after notice so to do shall have been posted on such lot or premises or otherwise given, served, or published, as the common council may direct by ordinance, resolution or otherwise, shall fail or neglect to construct, repair or renew any sidewalk or to clear away any snow, ice or other obstruction from any sidewalk or to widen any street adjoining such lot or premises within such time as the common council may prescribe or require by ordinance, resolution, or otherwise, the board of public works may cause the same to be done at the expense of the city, and such expense, with ten per cent. added, shall be deemed to be a special assessment upon such lot or premises, and the common council may add the same to the amount of the general city tax on such lot or premises in the proper district tax roll made the same year the said expense for such improvement was incurred or next thereafter to be made; and the amount so added shall be a lien on the premises in the same manner as the state, county and other city taxes to which it is added, and may be collected and enforced, and, if not paid, the land sold therefor in the manner as for other ordinary taxes, and at the time of the sale of any such lot or premises for such delinquent tax or taxes, the city clerk or other officer of the city may cause the same to be bid off to the city in its corporate name, and if not redeemed within the time allowed by law, the city shall be entitled to a deed of such lot or premises from the auditor general as provided in all other cases, which deed shall be *prima facie* evidence of the regularity of all the proceedings by the common council and other officers of the city relating to such local improvement and assessment of the costs upon such lots or prem-

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ises as well as all the proceedings by the assessor and other officers from the valuation of such lot or premises to the date of the deed, inclusive, and of title in fee in the purchaser.

SECTION 133. Whenever an action shall have been maintained and judgment recovered against said city by any person on account of damages sustained by reason of any defective sidewalk or opening in the same, occasioned by the wrong or negligence of the owner of or occupant of the premises in front of which said sidewalk shall be, or on account of any excavation in the street by any gas, hydraulic or railroad company, and such owner, occupant or company shall have been reasonably notified to appear and defend such action, the judgment, if any, obtained against said city, shall be conclusive as to the amount of the damages, and the validity of the claim of the city against such owner, occupant or company, and the same may be recovered in an action for money paid for the use of said owner, occupant or company, or in any other proper form of action.

BOARD OF PUBLIC WORKS.

SECTION 134. There shall be a board of public works, consisting of three good and competent men who are elec-

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SECTION 132. A court of chancery has no jurisdiction to contest the discretion of the council as to when or where sidewalks shall be laid: Irving vs. Ford (decided April 14, 1887 in the Mich. Supreme Court). A city is not compelled to build crosswalks. It can determine for itself the necessity for building them, and it is not liable for injuries received from a neglect to build: Williams vs. Grand Rapids, 59 Mich., 51. But where the city has taken up a crosswalk while grading a street, it is liable for injuries received by leaving an excavation into which the plaintiff falls. So decided by our Supreme Court, May 11, 1888, in Alexander vs. Big Rapids. The city having reasonable time and opportunity must at all times keep crosswalks in such repair as to be reasonably safe and convenient for the public use: Dalton vs. Albion, 50 Mich., 159.

SECTION 133. Judgement must be obtained against the city, before a suit can be maintained under this section: Taylor vs. L. S. & M. S. R. R. Co., 45 Mich., 74. The liability of the city for defective sidewalks is fixed, Act No. 64 of the Public Acts of 1887.

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tors. The members of such board shall be appointed by the mayor, subject to the approval of the majority of the members elect of the common council, and shall hold office for the term of three years and until their successors are appointed and qualify, the said term to commence on the fifteenth day of May.

SECTION 135. The first members composing such board shall be appointed, one for the term of one year, one for the term of two years and one for the term of three years from the date of their appointment; and said mayor shall annually nominate to the common council on the first Monday in May, or as soon thereafter as may be, a member of such board, for the term of three years. The members first appointed under this act shall, within ten days from the date of their appointment, meet and organize the said board of public works by the election of one of their number as president; and the common council shall thereupon, and at all time thereafter, provide the board with a suitable office room for its meetings and business uses, and supply record books, stationery and other things necessary for the transaction of the business in charge of said board and provide for the payment, in like manner as other accounts against the city, of all necessary and lawful expenses incurred by said board.

SECTION 136. Said board of public works shall. after the said public improvements have been first duly ordered by the common council, have supervision and charge of the construction and repair of all sidewalks, cellars under sidewalks, crosswalks, culverts, bridges, platforms, fountains, and reservoirs; the construction, repair and extension of all the main and lateral sewers and drains; the erection, alteration, and repair of all engine houses, police stations, city halls, and other public buildings of every description in said city, except school houses and buildings for water-works; the deepening and cleaning of ditches and gutters; the cleaning, repairing, grading, planking, graveling, or covering with other material of all streets

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and alleys; the laying out and improvement of all parks and public grounds; and shall in addition thereto, exercise such other powers, and perform such other duties, in the superintendence, construction, and care of public works and improvements as the common council may from time to time by ordinance direct. Said board of public works may recommend a change of grades for streets, alleys, lanes, and sidewalks to the common council, but shall make no change in the established grades of any streets, alleys, lanes, gutters or sidewalks of the city without the consent of the common council, made in pursuance of an ordinance of the city establishing all said grades. All plats or additions to the city shall be first submitted to the board of public works for its approval before the same are recorded.

SECTION 137. Whenever the common council of said city shall have decided upon the making of any public improvement it shall so declare by resolution and shall refer the matter to the board of public works and such other board or boards as may be interested therein and said board or boards, with all convenient dispatch shall determine as to the particular kind of materials to be used therefor, and estimate, in detail the quantity of materials, the probable cost and expense of such work and of the materials and make a record thereof in their office; and cause to be prepared, so far as necessary, plans and specifications for such work or improvement; and report the determination and estimate to the common council. When such plans and specifications have been submitted to the common council, and approved by it, the said board of public works shall, except in the case of cleaning the ditches and gutters, and the repair of streets and sidewalks, advertise for the proposals for furnishing of material and

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SECTION 136. Where the board of public works change the grade of a street without the authority of the common council, the contractors making excavations under such unauthorized act of the board are liable to trespass for so doing: Larned vs. Briscoe, 62 Mich., 393.

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for the performance of such work; and may require all bidders to furnish security for the performance of any contract awarded to them; and all bids submitted to said board shall be publicly opened by it, and, as soon thereafter as may be, reported by the said board to the common council together with its recommendation in respect thereto; and no contracts shall be let by the said board until duly authorized by the common council; and no expenditures for any purpose exceeding twenty-five dollars shall be made by the said board except by consent of the common council.

SECTION 138. All contracts made by said board shall be in the name of the city of Ann Arbor; shall first be approved, as to form, by the city attorney, shall be executed by the president and clerk of said board; and said board shall have direction of the performance thereof. The board shall reserve the right, in all contracts, to determine all questions as to the proper performance of such contracts, and as to the completion of the work specified therein; and in case of the improper, dilatory, or imperfect performance thereof, to suspend work at any time and to order the partial reconstruction of the same, if improperly done; to relet the work covered by said contract, or any unfinished portion thereof; or, by its employes, to take

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SECTION 137. In Butler vs. Detroit, 43 Mich., 552, it was held that bids cannot be invited until an estimate and report is made to the council. The provision requiring the board of public works to make an estimate to the council is mandatory. The court said: "The plain purpose of this section is to prevent the council going forward with any work involving the expenditure of money without first considering both its expediency and probable cost. If they can take no definite steps and expend no money until they have had the views of a board especially familiar with the subject and a reliable estimate of the burdens to be created, each one votes upon the scheme with his eyes open." If the board adopts, approves and reports to the council an estimate made by the city surveyor, it is a sufficient observance of the charter provision that an estimate be made: Cuming vs. Grand Rapids, 46 Mich., 150. An advertisement, for bids purporting to emanate from the Board of Public Works office, signed ———, President. and stating that bidders are required to file satisfactory bonds with the Board of Public Works, and the expense of advertising is properly included in an assessment for street paving: Beniteau vs. Detroit, 41 Mich., 116.

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possession and complete the same, at the expense of the contractor. It shall also have the right, by proper provisions, in all contracts, to retain a sufficient sum from the contract price to pay and discharge all debts incurred by the contractor for labor performed upon any public work; and upon the failure of the contractor to pay the same, to make payment thereof to the parties entitled thereto, and charge the amount so expended against the contract price. Said board of public works is hereby authorized to commence and prosecute, in the name of the city, any suits or proceedings for the recovery of damages for the breach of any such contract entered into by said board, or to enforce the performance of any such contract.

SECTION 139. Said board shall have the power to appoint, subject to the approval of the common council, a city engineer, who shall hold office during the pleasure of the said board, shall make all surveys required for the laying out, construction, alteration, repair and improvement of streets, sewers, water-mains, cemeteries, parks, public grounds and buildings, and prepare all necessary plans, profiles and specifications therefor, and perform the civil engineering work of said city of every description, as required by the common council, the said board of public works, or any other lawful authority of said city: Said engineer may, subject to the approval of the board of public works, appoint such assistants under him as are required for the proper and prompt performance of his duties, and discharge such assistants at pleasure. Said board shall also have the power to appoint suitable persons who shall have the personal supervision of the construction and repair of public buildings; and the said board shall appoint a street commissioner, who shall have charge of the grading, paving, improving, cleaning and care of the streets, sidewalks, alleys and public grounds, the construction of sidewalks, and the cleaning and deepening the ditches, drains and gutters, under the direction of said board of public works, who may remove the said street commis-

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sioner at pleasure, and may appoint such other subordinates as may be necessary to enable the board to properly perform the duties devolving upon it. Said board shall determine the compensation of said engineer and other appointees of said board, subject to a change by a majority vote of all the members elect of the common council; and all other claims for the same, when certified by the board, shall be submitted to the common council for allowance and payment, in the same manner as other claims against the city.

SECTION 140. The said board shall classify the various works under its control, and keep an accurate account of the cost of each, and of the amounts expended for construction, repairs, superintendence, and salaries of employes, and, also, detailed accounts of all other matters under its charge and control, and upon the first Monday of January of each year, and oftener if required by the common council, shall submit to it a statement, showing, in detail, the progress and condition of all the public improvements commenced or carried forward by said board; the character and amounts of all contracts made by the board; the moneys earned and paid thereon; and all other information necessary to the full understanding of the business conducted by said board. The board shall from time to time make estimates of the amounts earned and payable upon any contract for work done and materials furnished, and report the same to the common council; and thereupon it shall be the duty of the common council, without unreasonable delay, to order payment from the proper funds, of the amount so reported.

SECTION 141. The city attorney shall act as legal advisor of said board; and the city clerk shall be the clerk thereof; and shall keep a full record of its proceedings, showing the vote by ayes and nays, of each member upon all orders, resolutions or recommendations, which records shall be deemed to be public records, and shall at all times be open to the public inspection; and a copy thereof

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published within five days after each session, in the official newspaper of the city, and the marshal with his deputies and policemen shall be at the service of the board in serving the sidewalk notices, and enforcing the ordinances relative to the repairs of sidewalks. A majority of the board shall form a quorum for the transaction of business, but a majority of all members constituting said board shall be necessary to decide any questions before the same. The board shall have the power to make all such by-laws, rules and regulations as may be necessary or expedient for the conduct of its business, not inconsistent with the provisions of the charter and ordinances of the city. It shall have the power to fix the duties, and at any time, to suspend or discharge any of its appointees or employees, and appoint or employ others in their places (as to the said board the public interest may seem to require) except as otherwise provided in this act.

SECTION 142. The street commissioner appointed by the said board, shall, before entering upon the duties of his office, execute a bond to the city of Ann Arbor in the sum of one thousand dollars, conditioned for the faithful performance of duties of said office, with sureties to be approved by the common council; and if said street commissioner shall fail or neglect to give such bond within ten days after his appointment, he shall be deemed to have resigned his office, and a vacancy thereby created may be filled by the appointment as hereinbefore provided.

SECTION 143. No member of said board, the street commissioner, nor engineer, shall hold any elective office under the charter of said city while holding said office;

SECTION 141. Under a similar section it was held that evidence of oral instructions given in open session regarding the construction of a drain is inadmissable. But the acts of the street commissioner may be ratified, if the corporation might legally have authorized them in the first instance. The auditing of the pay roll for work and materials is equivalent to an adoption of the plan under which the work was done: Davis vs. Jackson, 61 Mich., 530.

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and his election to and acceptance of any office in said city shall be deemed a resignation of membership, and shall vacate his office in said board. No member of said board, street commissioner or city engineer, shall be personally interested, either directly or indirectly, in any contract for any public work in said city; nor in the purchase, sale or disposition of any material to be used or applied in or about any public work or improvement. Any member of said board may be, at any time, removed by the common council of said city for official misconduct, or for the unfaithful or inefficient performance of the duties of his office: *Provided*, That the charges against the said member sought to be removed, and the notice of the time and place of hearing the same, shall be served on him at least ten days previous to the time so assigned, and an opportunity given him to make his defense. Whenever a member shall be removed or a vacancy in said board shall occur by reason of the removal of any member from the city, resignation, death, or otherwise, the same shall be filled for the unexpired term by the appointment of the mayor, with the consent of the common council.

SECTION 144. All books, surveys, field notes, plats, plans, specifications and other records of every description in the custody of said city engineer or other city officers shall forthwith, on the organization of the board of public works, be delivered to it; and the same, together with all future surveys, surveyors' field notes, plats, records, plans, profile and other papers connected with the work of the board, shall belong to the city and be carefully preserved as public records. All contracts for public improvements heretofore lawfully entered into by any person with the city, or any lawfully authorized board or officer thereof, shall be carried out and completed under the direction of the said board of public works.

FIRE DEPARTMENT.

SECTION 145. There shall be a board of fire commis-

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sioners in said city. It shall consist of three good and competent men who are electors therein. They shall be appointed by the mayor, subject to the approval of the majority of all the aldermen elect. The full term of a member shall be three years, but the members shall be subject to classification in such a manner that one term shall expire in each year. They shall serve without compensation.

SECTION 146. The board of fire commissioners shall have power, subject to the charter and ordinances of said city, to establish and enforce such regulations as they shall deem necessary to guard against the occurrence of fires, and to protect the property and the persons of the citizens against damage and accident resulting therefrom; and for this purpose to establish and maintain a fire department; and said council is hereby required to make such ordinances as are required therefor. The board of fire commissioners shall have power to organize and maintain fire companies, to employ and appoint firemen, and to make and establish rules and regulations for the government of the department, the employes, firemen, and officers thereof; and for the care and management of the engines, apparatus, property, and buildings pertaining to the department; and prescribing the powers and duties of such employes, firemen and officers.

SECTION 147. The board of fire commissioners shall nominate and with the consent of the common council shall appoint a chief of the fire department. The city clerk shall be secretary of said board.

SECTION 148. The fire commissioners may, subject to the consent of the common council, purchase and provide suitable engines and such other apparatus, instruments and means for the use of the department as may be deemed necessary for the extinguishment of fires, and may sink wells and construct cisterns and reservoirs in the streets, public grounds and other suitable places in the city.

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SECTION 149. The chief of the fire department shall be subject to the direction of the board of fire commissioners and have the supervision and direction of the department and the care and management of the fire engines, apparatus and property, subject to such rules and regulations as the board of fire commissioners may prescribe.

SECTION 150. The members of the board of fire commissioners, chief of the fire department, chief of police or any officer of the fire department may command any person present at a fire to aid in the extinguishment thereof, and to assist in the protection of property thereat. If any person shall willfully disobey any such lawful requirement or other lawful order and direction of any such officer, the officer giving the order may arrest or direct any policeman to arrest such person and confine him temporarily until the fire shall be extinguished, and in addition thereto he shall be punished in such manner as may be prescribed by the ordinance of the city.

SECTION 151. The board of fire commissioners may provide for the appointment of and may appoint such number of fire wardens as may be deemed necessary, and for the examination by them from time to time, of the stoves, furnaces and heating apparatus and devices in all the dwellings, buildings and structures within the city, and in all places where combustible or explosive substances are kept; and to cause all such as are unsafe with respect to fire to be put in a safe condition.

SECTION 152. The common council may prescribe by

SECTION 152. The council has power to pass ordinances establishing fire limits and forbidding the rebuilding or repair of wooden buildings within such limits: Brady vs. North Western Insurance Company, 11 Mich., 425. Where wooden buildings are erected in the fire limits in violation of the city ordinances, the city is not liable for losses from fires started by such buildings: Hines vs Charlotte, decided by the Michigan Supreme Court in November 1888. The erection of a wooden building within the fire limits is not a nuisance, and a court of equity will not enjoin its erection. The council cannot declare it a nuisance and order its removal, but they can enforce their ordinance by appropriate penalties: St.Johns vs.McFarlan,33 Mich.,72.

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ordinance from time to time, limits or districts within the city, within which wooden (frames) buildings shall not be erected, placed, enlarged, renewed or repaired, and to direct the manner of constructing buildings within such districts, with respect to protection against fire and the material of which the walls and roofs shall be constructed.

SECTION 153. The common council may also prohibit within such places or districts as they shall deem expedient for the location of shops; the prosecution of any trade or business; the keeping of lumber yards and the storing of lumber, wood or other easily inflammable material in open places, when, in the opinion of the common council, the danger from fire is thereby increased. They may regulate the storing of gunpowder, oils and other combustible and explosive substances and the use of lights in buildings, to prohibit and regulate the erection and maintenance of boilers, engines and chimneys, and generally may pass and enforce such ordinances and regulations as they may deem necessary for the prevention and suppression of fires.

SECTION 154. Every building or structure, engine or boiler which may be erected, placed, repaired, renewed, enlarged, or kept in violation of any ordinance or regulation made for the prevention of fires, is hereby declared to be a nuisance, and may be removed by the direction of the board of fire commissioners.

SECTION 155. The officers, firemen, and employes of the department shall receive such compensation as the common council may prescribe; and during their term of service shall be exempt from serving on juries. The common council may provide suitable compensation for an injury which any fireman may receive to his person or property in consequence of the performance of his duty at any fire.

SECTION 156. The engineer in charge of the department at any fire, with the concurrence of the mayor, or

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any two fire commissioners, may cause any building to be pulled down or destroyed when deemed necessary, in order to arrest the progress of the fire, and no action shall be maintained against any person or against the city therefor; but if any person having an interest in the building shall apply to the common council within three months after the fire, for damages or compensation for such building the common council shall pay him such compensation as may be just. They may ascertain such damage by agreement with the owner, or by the appraisal of the jury, to be selected in the same manner as in the case of juries to appraise damages for taking private property for public use; and the common council may cause the amount of any damages determined upon to be defrayed by a special assessment upon the property which in their opinion was protected or benefited by the destruction of such building; but no damages shall be paid for the amount of any loss which would have probably occurred to such if it had not been pulled down or destroyed.

SECTION 157. The said fire department, its officers and men, with their engines and apparatus of all kinds, shall have the right-of-way going to any fire or in any highway, street or alley, over any and all vehicles of every kind, except those carrying the United States mail; and any person who shall refuse the right of way, or in any manner obstruct any fire apparatus, or any of said officers and men while in the performance of their duties, or shall drive over or cut any hose, shall be guilty of a misdemeanor and liable to punishment for the same. It shall be lawful for said board to send an engine, with hose and apparatus, to the relief of any community in the vicinity of Ann Arbor.

SECTION 158. Whenever a person or corporation shall be desirous of erecting or altering any building within the fire limits of said city, he, she or they shall make application at the office of the chief of the fire department

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for a permit for that purpose, and shall furnish for the examination of said chief a written statement of the proposed location, the dimensions, the manner of constructing the proposed building or alteration, the material to be used, the estimated cost, and the contract for completion. It shall be the duty of the chief, on receiving such application, to inspect the location, and to fully examine the question of granting such permit, and if he shall be satisfied that the building or alteration proposed will comply with the ordinances of the city, and the erection of the same will in any other respect be proper, he shall, subject to the approval of the board of fire commissioners, give such applicant a permit therefor, and such applicant shall pay to the chief the sum of one dollar, if the estimated cost of said building or alteration shall be less than one thousand dollars; two dollars if it shall be more than one thousand dollars and less than five thousand dollars, and for every additional one thousand dollars over five thousand dollars, the further sum of fifty cents. All moneys so received by the chief shall be paid by him into the city treasury at least once a month, and a detailed statement thereof, giving the date when, and the name of the person from whom received, shall be filed in the office of the city clerk.

SECTION 159. It shall be the duty of the chief of the fire department to visit and inspect each building which may be in the course of erection, construction or alteration within the fire limits of said city, and to see that such house or building is being erected, constructed or altered according to the provisions of the city ordinances and the permit so granted, and in a manner adapted for the security thereof against fires, and the safety of the occupants. His visits and inspection may be repeated from time to time until such house or building is completed, when he shall, if requested, furnish the owner or constructor with a certificate that said house or building is in all respects conformable to law and properly constructed.

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SECTION 160. It shall be the duty of the board of fire commissioners to cause the chief of the department to examine into the cause, circumstances and origin of all fires occurring in said city, by which any building, erection or valuable personal property shall be accidently or unlawfully burned, destroyed or damaged, and to especially inquire and examine whether such fire was the result of carelessness or the act of any incendiary. The chief of the fire department may take the testimony of all persons supposed to be cognizant of any facts connected with such fire; said testimony shall be reduced to writing and shall be transmitted to the board of fire commissioners, together with a report by the chief of the fire department embodying his opinion in regard thereto. The chief of the fire department shall also report to the chief of police, to the prosecuting attorney of Washtenaw county and to the owners of property or other persons interested in the subject matter of such investigation, any facts or circumstances which he may have ascertained which shall in his opinion require attention from or by said officers or persons.

THE PUBLIC HEALTH.

SECTION 161. There shall be a board of health in said city which shall consist of three members, one of whom shall be a competent physician; they shall be appointed by the mayor, by and with the consent of the common council, for the full term of three years; but the members shall be subject to classification in such manner that one term shall expire each year.

SECTION 162. The said board shall have and possess all the powers given by the general statutes of this State to boards of health in townships, in addition to those herein particularly enumerated, except when the powers granted would conflict with the provisions contained in this charter. Said board of health shall have power and it shall be their duty to take such measures as they shall

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deem effectual to prevent the entrance of any pestilential or infectious disease into the city; to stop, detain, and examine for that purpose every person coming from any place infected or believed to be infected with such a disease; to establish, maintain, and regulate a pest-house or hospital at some place within the city or not exceeding three miles beyond its limits or bounds; to cause any person not being a resident of the city who shall be or is suspected of being infected with any such disease, to be sent to such pest-house or hospital; to cause any resident of the city infected to be removed to such pest house or hospital if the health physician and two other physicians of the city, including the attending physician of the sick person, if he has one, shall certify that the removal of such resident is necessary for the public health: *Provided*, It can be done with safety to the patient; to remove from the city or destroy any furniture, wearing apparel, goods, wares and merchandise, or other articles of property of any kind, which shall be suspected of being tainted or infected with any pestilence, or which shall be in or likely to pass into such state as to generate and propagate disease; to abate all nuisances of every description which are or may be injurious to the public health in any way or in any manner they may deem ex-

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SECTION 162. The powers given to township boards of health and which are by this section given to the board of health of the city are found in Howell's Statutes, sections 1633 to 1690. The authority of the board of health to guard against small-pox extends to making contracts for nursing patients and destroying infected clothing, and when they have allowed accounts for such services rendered and property destroyed, the board of supervisors must pass such accounts and can be compelled by mandamus to do so; they cannot refuse on the ground that the patients were themselves able to pay; Elliott vs. Kalkaska Supervisors, 58 Mich., 452. But compensation cannot be collected for the use of a house for a small-pox patient, which was already infected with small-pox: Farnsworth vs. Kalkaska Supervisors, 56 Mich., 640. The supervisors may pass upon the pecuniary ability of the patient to pay for the necessaries furnished: People vs. Macomb Supervisors, 3 Mich., 475. But the public is, in the first instance, liable to pay. If they were not, it would be impossible to adequately provide against epidemics: Rae vs. Flint, 51 Mich., 526.

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pedient, and from time to time to do all acts, make all regulations, and pass all ordinances which they shall deem necessary or expedient for the preservation of health and suppression of disease in the city and to carry into effect and execute the powers hereby granted.

SECTION 163. The owner, driver, conductor or person in charge of any stage coach, railroad car or any other public conveyance which shall enter the city having on board any person sick of malignant fever or pestilence or infectious disease, shall, within two hours after the arrival of such sick person, report the fact in writing, with the name of such person and the house or place where he was put down in the city, to the mayor, or some member or officer of the board of health.

SECTION 164. Any person who shall knowingly bring or procure, or cause to be brought into the city any property of any kind tainted or infected with any malignant fever or pestilential or infectious disease, shall be guilty of a misdemeanor, punishable by fine and imprisonment.

SECTION 165. Every keeper of an inn, boarding house or lodging house in the city, who shall have in his house at any time any sick traveler or stranger, shall report the fact and name of the person in writing, within six hours after his sickness becomes known, to the mayor or some other officer or member of the board of health; and every physician in the city shall report, under this head, to one of the officers above named, the name, residence and disease of every patient whom he shall have sick of any infectious or pestilential disease within six hours after he shall have first visited such patient or discovered the infectious nature of the disease. The common council may provide by ordinance for the punishment of persons violating any of the provisions of this or the two preceding sections.

SECTION 166. All fines imposed under any ordinance passed under this title shall belong to the city, and when

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collected shall be paid into the treasury, and be devoted to the maintenance and support of the pest-house, or of any hospital hereafter established by the city.

SECTION 167. The common council shall have power to pass and enact such by-laws and ordinances as they from time to time shall deem necessary and proper for the filling up, draining, cleansing, and regulating any grounds, yards, basins or cellars within the said city that shall be sunken, damp, foul, encumbered with filth and rubbish, unwholesome, and for filling, or altering amending all sinks and privies within the said city, and for directing the mode of constructing them in future, and to cause all such works as shall be necessary for the purpose aforesaid and for the preservation of the public health and the cleanliness of the city, to be executed and done at the expense of the city corporation, on account of the persons respectively upon whom the same may be assessed and for that purpose cause the expenses thereof to be estimated, assessed and collected, and the lands charged therewith sold in case of non-payment, the same as provided by law with respect to other improvements within said city, and in all cases when the said by-laws or ordinances shall require anything to be done in respect to the property of several persons, the expenses thereof may be included in one assessment, and the several houses and lots in respect to which such assessment shall have been incurred, shall be briefly described in the manner required by law in the assessment roll for the general expenses of the city, and the sum of money assessed to each owner or occupant of any such house or lot, shall be the amount of money expended in making such improvement upon such premises, together with the ratable proportion of the expenses of assessing and collecting the money expended in making the improvements.

SECTION 168. Whenever, in the opinion of the common council, any building, fence or other erection of any

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kind, or part thereof, is liable to fall down, and persons or property may be endangered, they may order any owner or occupant of the premises on which said building, fence or other erection stands to take down the same or any part thereof within a reasonable time, to be fixed by said order, or immediately, as the case may require, or may immediately, in case the order is not complied with, cause the same to be taken down at the expense of the city, on account of the owner of the premises, and assess the same on the land on which it stood. The order, if not immediate in its terms, may be served on any occupant of the premises or be published in the city papers, as the common council shall direct.

SECTION 169. The members of the board of health and the health officers shall receive such compensation for their services as may be allowed by the common council.

FINANCE AND TAXATION.

SECTION 170. The common council shall examine, settle and allow all accounts and demands properly chargeable against the said city, as well of its officers as of other persons, and shall have authority to provide means for the payment of the same, and for defraying the contingent expenses of the said city, subject only to the limitation and restrictions in this act contained. The fiscal year shall commence on the first day of February in each year.

SECTION 171. The common council shall have authority to assess, levy, and collect taxes on all the real and personal estate taxable in said city, which tax shall be and remain a lien upon the property so assessed until the same shall be paid: *Provided*, That the aggregate amount which the council may raise by general tax upon the taxable real and personal property for the purposse for which the several general funds are hereinafter constituted shall not, except as herein otherwise provided, exceed in any one year one-half of one per cent. on the assessed value of all the real and personal property in the city made tax-

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able by law: and *provided further*, That nothing herein contained shall be so construed as to prohibit the common council of said city from regulating by tax or otherwise the business of dealing in malt, spirituous or intoxicating liquors.

SECTION 172. The revenues raised by general tax upon all the property in the city shall be divided into the following general funds:

First, Contingent fund. To defray the contingent and other expenses of the city, for the payment of which from some other fund no provision is made.

Second, Fire department fund. To defray the expense of purchasing grounds, erecting engine houses thereon, purchasing engines and other fire apparatus, and all other expenses necessary to maintain the fire department of the city.

Third, Street fund. To defray the expense of opening, widening, extending, altering, and vacating streets, alleys and public grounds of the city, and grading, improving, paving, repairing and working upon the streets and for the construction and repair of sidewalks and cross-

---

SECTION 171. The constitution requires the legislature to limit the power of the city to levy taxes Con. Act 15, Sec. 13. The manner in which the restriction should be imposed is left to the legislature: People vs. Mahaney, 13 Mich., 481, 498. A tax levied in excess of the limit prescribed in this section, would be void: Wattles vs. Lapeer, 40 Mich., 624; Butler vs. Detroit, 43 Mich., 552. But it would seem void only as to the excess: Connors vs. Detroit, 41 Mich. 128; Stockdale vs. Wayland School District, 47 Mich., 226.

SECTION 172. It is necessary in order to make the tax levy a legal one that the council should designate the amounts to be raised for the several funds prior to the levy. It would be illegal for the council to levy a certain amount for all the funds without designating what amount shall go into each fund. It is not necessary however, that the council should raise something for each fund: Fay vs. Wood. 65 Mich.; Hoyt vs. East Saginaw, 19 Mich., 44. Every essential proceeding in the course of a levy of taxes must appear in some written and permanent form in the record of the council. Such a thing as a parol levy of taxes is not legally possible under our laws: Moser vs. White, 29 Mich., 59.

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walks, and for the care thereof, and for the construction and maintenance of bridges.

Fourth, Water fund. For providing water supply for fire and other public purposes.

Fifth, Police fund. For the maintenance of the police of the city and to defray the expense of the arrest and punishment of those violating the ordinances of the city.

Sixth, Poor fund. For the support and relief and maintenance of the poor.

Seventh, Cemetery fund. For the purchase or care of the public cemeteries, and for the removal of bodies buried within the city.

Eighth, Such other general funds as the council may from time to time constitute: *Provided*, That the amount to be raised by tax for each of the above funds shall be determined by the common council prior to the levy and no transfer shall be made from one fund to another except by a three-fourths vote of all the members of the common council elect.

SECTION 173. It shall be the duty of the city assessor, as soon as possible after entering upon the duties of his office, to ascertain the taxable property of the city, and the persons to whom it should be assessed and their residence, and on or before the second Monday in June each year he shall make and complete an assessment roll for each and every ward in said city, upon which he shall set down the name of persons liable to be taxed for personal property in the city, and also a full description of the real property liable to be taxed therein. In making such rolls he shall be governed by the general laws of the state providing for the assessment of property and the levy and collection of taxes thereon, and shall have all the powers conferred upon the supervisors of townships.

SECTION 173. For the general duties of the assessor in making the assessment and of the board of review see Act No. 153 of the Public Acts of 1885, and Act No. 254 of the Public Acts of 1887.

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SECTION 174. On the Tuesday next following the second Monday in June in each year, the board of review consisting of the assessor and the supervisors of the several wards, shall meet at the common council room in said city, at which time the assessor shall submit to said board the several ward assessment rolls for the current year, as prepared by him, and the said board shall proceed to examine the same during such week, during at least six hours of each day thereof, in the same manner and with the same powers as provided by general law. A majority of the members of said board shall constitute a quorum. The assessor shall be chairman of said board and the city clerk shall act as clerk thereof. Whenever said board shall raise the valuation of personal property above that set forth in the written statement furnished by any person to the supervisor or assessor it shall be the duty of said board of review on the request of the person whose valuation is so raised to make and deliver to such person a written statement signed by the chairman of said board, setting forth the kinds with the value thereof of such personal property as has been added by said board to such valuation.

SECTION 175. The said board of review shall also meet at the common council room on the third Monday in June, at nine o'clock in the forenoon, and continue in open and public session during that day and the day following, and as much longer as may be necessary to complete the review of said assessment rolls, not to exceed four days in all, and not less than six hours each day, and at the request of any person whose property is assessed on said rolls, or of his agent, and on sufficient cause being shown, shall correct the assessment in such manner as in their judgment will make the valuation thereof just and equal. To that end said board may examine on oath the person making such application, or any other person touching the matter. Any member of said board may administer such oath. After said board shall complete the review of said

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rolls, a certificate to the effect that the same is the assessment roll for the ward therein named, for the year in which it has been prepared and approved by the board of review, shall be indorsed thereon, signed by the chairman and clerk of said board, which certificate may be in the form as follows: "The Board of Review of the city of Ann Arbor certify that the within or annexed roll is the assessment roll of the.....ward of the city of Ann Arbor for the year 18...., as approved by said board.

Chairman.....
Clerk .....

Upon the completion of said rolls and their indorsement in the manner aforesaid, the same shall be conclusively presumed by all courts and tribunals to be valid, and shall not be set aside except for causes prescribed by the general State law. The omission of such indorsement shall not affect the validity of such roll.

SECTION 176. For the purpose of equalization by the board of supervisors of the county of Washtenaw the said ward assessment rolls shall be deemed as a single roll; the valuation fixed and determined by said board shall be the valuation of the taxable property of the city of Ann Arbor as a unit, and the state, county and other taxes apportioned by said board shall be apportioned to said city and not any ward thereof.

SECTION 177. Whenever the common council shall deem it necessary to raise a greater sum in one year than provided for in section one hundred and seventy-seven (171) they shall give at least five days notice in writing to be posted up in at least five public places in each ward in said city, which notice shall state the time and place of such meeting, and shall specify the objects and purposes for which the moneys proposed to be raised are to be expended, and when such meeting shall be assembled in pursuance of such notice the electors qualified to vote thereat by a ballot vote shall determine the amounts of the money which shall be raised for the objects specified

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in the notice: *Provided*, That the aggregate amount of city taxes levied shall not in any one year exceed one per cent. of the valuation of the real and personal estate taxable within the limits of the city: *Provided also*, That no more than two such meetings shall be held in any calendar year. The polls at any such meeting shall be kept open at least six hours, and the common council shall appoint three of its members to act as inspectors. The city clerk shall be the clerk of such meeting and shall keep a poll list of the electors voting.

SECTION 178. All State, county and school taxes in said city, and all city taxes which shall be raised by a general tax, shall be levied and collected, as near as may be, in the same manner as provided by the law for the assessment and collection of taxes by township officers; and all proceedings for the return, sale and redemption of real estate for non-payment of taxes, shall be in conformity with the proceedings for the return, sale and redemption of real estate as required by the laws of this State.

SECTION 179. Whenever the common council shall authorize a tax to be levied, for any special purpose, and which cannot be included in the assessment roll, and collected and returned for non-payment, as provided in the preceding section of this act, it shall be lawful for the common council to apportion such tax upon the property taxable for such purpose, according to the valuation contained in the then last assessment roll, and shall place the tax in a column opposite the valuation of the property; and where such roll is completed, the city clerk shall make and deliver a copy thereof to the treasurer of said city, together with a warrant or warrants, signed by the mayor and city clerk, commanding such treasurer to collect from the several persons named in said roll, opposite their respective names, within a time in said warrant specified, not less than thirty days nor more than ninety days from the date thereof, together with a collection fee of one per

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cent., which said treasurer may add to each person's tax and collect therewith; and such warrant shall authorize the treasurer, in case any person named in said roll shall neglect or refuse to pay his tax, with the collection fee above provided, to levy the same by distress and sale of the goods and chattels of such person; and it shall be the duty of such treasurer to collect such taxes within the time specified in such warrant, or within such further time as the common council may by resolution direct, and deliver such roll and warrant to the city clerk; and if any person shall neglect or refuse to pay the tax imposed upon him, the treasurer may levy the same by distress and sale of goods and chattels of such person in the same manner as township treasurers, and if any of the taxes mentioned in said roll shall remain unpaid, and the treasurer shall be unable to collect the same from the person taxed, he shall make out and deliver to the city clerk a full and perfect copy from said roll of the description of the premises so taxed, and of the taxes thereon unpaid, and shall add thereto an affidavit, sworn to before an officer authorized to administer oaths for general purposes, that the sums mentioned in such statement remain unpaid, and that he has not, upon diligent search and inquiry, been able to discover any goods or chattels belonging to the person taxed, whereupon he could levy the same.

SECTION 180. The common council may by ordinance provide for the collection of all taxes necessary to be raised, other than such as may be raised as provided in section one hundred and seventy-four,(171), and for the sale of any real estate for the non-payment of such tax, and for the redemption thereof: *Provided*, That all the proceedings relative to the notice of sale, the manner of conducting the same and the time to redeem, shall be in conformity as near as may be to the provisions of law regulating the sale of lands delinquent (at) for State, county, and township taxes.

SECTION 181. The assessor of said city shall, on or be-

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fore the first day of December, deliver to the city treasurer a copy of the corrected assessment rolls of the several wards with the taxes for the year annexed to each valuation and carried out in the last column thereof; the school, library and school-house taxes in one column, the highway and street taxes in another, the city taxes in another, the county taxes in another, and the State taxes in another column; and if other taxes or special assessments are at any time required by or by the provisions of this charter law they shall be placed each in another column, and the warrant for the collection shall specify particularly the several amounts and purposes for which said taxes are to be paid into the city and county treasuries respectively.

SECTION 182. To such assessment roll or tax list the assessor shall annex a warrant, under his hand, directed to the city treasurer commanding him to collect from the several persons named in said roll the several sums mentioned in the last column of such roll opposite their respective names; and such warrant shall authorize the treasurer, in case any person named in such roll shall neglect or refuse to pay his tax, with the fees for collection to be added by said treasurer, as hereinafter provided, to levy the same by distress and sale of the goods and chattels of such person.

SECTION 183. The city treasurer shall, immediately after the receipt of the several tax rolls, post up in the postoffice in said city, and in as many as ten of the most public places in each ward of said city, conspicuous hand-bills, giving notice where the tax rolls can be seen, the taxes paid, and a receipt obtained therefor, at any time between nine o'clock in the forenoon and twelve o'clock, noon, and from one o'clock until four o'clock in the afternoon, during the month of December (Sundays and Christmas excepted); and the tax rolls shall be kept at the place mentioned in such hand-bills during the days and hours above specified, so that any person or persons can

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pay the tax or taxes assessed against him or them, and obtain the treasurers receipt therefor.

SECTION 184. Upon all taxes paid to the treasurer before the first day ot January, he shall add one-half of one per cent. for collection fees; and upon all taxes collected by him after the said first day of January, he shall add one and one-half of one per cent. for such collection fees, and collect such percentage with such tax, in the same manner as he is authorized to collect the tax; and for the purpose of collecting such fees by the treasurer, such percentage shall be deemed and taken to be a part of the tax.

SECTION 185. The treasurer of said city shall proceed to collect the taxes in the several wards, and on or before the first day of February shall account for and pay over to the county treasurer the amounts specified in the several warrants to be collected for State and county purposes, and shall return to the said county treasurer a statement of the taxes remaining unpaid and due, in the manner provided by law for township treasurers; and all the provisions of the laws of this State relating to the collection of taxes by township treasurers, or to the paying over of money by the township treasurers to the county treasurer, or returning by the township treasurer to the county treasurer of a statement of the taxes remaining unpaid and due, are hereby made applicable to the treasurer of said city.

SECTION 186. No bond, note, or other obligation or evidence of indebtedness of said corporation, except orders on the treasurer, as hereinafter provided, shall ever be given or issued by said corporation, or by any officer thereof, in his official capacity, whereby the said city shall become obligated to pay any money, unless the same shall have been duly authorized by the legislature of this state, and shall have been submitted to and voted for by a majority of the electors of said city voting thereon, in conformity to this act; but the common council may allow just claims against the city, and may issue orders therefor

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on the treasurer or payable on presentation from any moneys then in the treasury, on the first day of February thereafter; but such second named class of orders shall not, in any fiscal year, exceed the aggregate taxes levied in such year for the payment of the same. All moneys collected for the use of the city shall be paid into the city treasury, and no moneys shall be paid from the treasury unless it shall have been previously appropriated by the common council to the purpose for which it shall be drawn. The treasurer shall pay out no money except upon the written warrant of the mayor and city clerk, which warrant shall specify the fund from which the money is to be paid: *Provided*, That school moneys shall be paid to the treasurer of school district number one of the city of Ann Arbor upon the warrant of the president and secretary of said board.

MISCELLANEOUS.

SECTION 187. The assessor and supervisor of each ward and city clerk shall at the time appointed in each year for the return of the several ward assessment rolls, make a list of persons to serve as petit jurors, and a list to serve as grand jurors for the ensuing year, of the qualifications and in the manner prescribed by law.

SECTION 186. A contract cannot be made for a series of years, under this section. The limit to the amount of tax to be raised by the council each year was held, in Niles Water Works vs. Niles, 59 Mich., 311, to prevent the making of a thirty years water contract without a vote of the people. The council cannot burden the revenues of succeeding years: Putnam vs. Grand Rapids 58 Mich., 416. Where there is no money in a specific fund to pay orders against it, a suit will not lie on the orders: Second National Bank of Lansing vs Lansing, 25 Mich., 207; Goodrich vs. Detroit, 12 Mich., 279. Assumpsit will not lie against the city upon city orders. The remedy for the improper refusal of payment upon orders properly drawn is by mandamus; Peterson vs. Manistee, 36 Mich., 8. Warrants drawn upon the city treasurer are not negotiable instruments and while in the hands of a person to whom they have been sold are subject to all the equities existing between the payee and the city, without reference to the good faith of the holder; Miner vs. Vedder., 65 Mich. When any work or local improvement is payable from a particular fund and the council misappropriates or transfers the money in this fund, the city at large is liable therefore: Chaffee vs. Granger, 6 Mich., 51; Lansing vs. Gorder, 24 Mich., 456.

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SECTION 188. Any person who may be required to take any oath or affirmation, under or by virtue of any provision of this act, who shall, under such oath or affirmation, in any statement or affidavit, or otherwise, willfully swear falsely as to any material fact or matter, shall be deemed guilty of perjury.

SECTION 189. If any suit shall be commenced against any person elected or appointed under this act to any office, for any act done or omitted to be done under such election or appointment, or against any person having done any thing or act by the command of any such officer, and if final judgment be rendered in such suit, whereby any such defendant shall be entitled to costs, he shall recover double costs, in the manner defined by law.

SECTION 190. The common council of said city is hereby authorized and required to perform the same duties in and for said city as are by law imposed upon the township boards of the several townships of this State, in relation to schools, school taxes, county and State taxes, and State, district and county elections; and the supervisors and assessors, justices of the peace and city clerk, and all other officers of the city, who are required to perform the duties of township officers of this State, shall take the oath, give the bond, perform like duties, and receive the same pay and in the same manner and be subject to the same liabilities, as provided for the corresponding township officers, excepting as is otherwise provided in this act, or as may be provided by the ordinances of the common council.

SECTION 191. The ordinances now in force in the city of Ann Arbor shall remain in force until repealed, altered, or amended by the common council; and all property, rights, credits and effects of every kind, belonging to the city of Ann Arbor, shall be and remain the property of the said city of Ann Arbor.

SECTION 192. All acts heretofore enacted in regard to

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the village of Ann Arbor, or the city of Ann Arbor, coming within the purview of this act, are hereby repealed: *Provided*, That the repealing of said acts aforesaid shall not affect any act already done, or any right acquired under, or proceeding had or commenced by virtue thereof, but the same shall remain as valid as if said acts remained in full force: *And provided further*, That all persons now holding office in the city of Ann Arbor, under the acts hereby repealed, shall continue to hold and exercise the duties of such offices during the term for which they were respectively elected.

SECTION 193. This act shall not be construed so as to change, alter or annul any act heretofore passed for the organization or government of school district number one, of the city and township of Ann Arbor.

This act is ordered to take immediate effect.

Approved March 15th, 1889.

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