

## CHAPTER 1576.

1869.

AN ACT to amend an act, entitled "An act to consolidate the Towns of Jamestown and Brooklyn, in Campbell County, and incorporate the City of Dayton," approved March 9, 1867.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That the legislative power of the city of Dayton is, and shall hereafter be, vested in a board to be styled "The City Council of the City of Dayton," composed of a president, to be elected by all the qualified voters of said city; and four members from each ward having the qualifications of voters of the city for one year next before their election, who shall be chosen annually by the qualified voters of the several wards, on the second Monday in March, each year.

Legislative power of city, in whom vested.

When city council to be elected.

§ 2. The city council of the city of Dayton is hereby authorized and empowered to pass all by-laws and ordinances necessary for the good government and general police of the city, and to carry into effect the provisions of this or any other act relating to the city; to levy and collect a general ad valorem tax on all the taxable property of the city, not exceeding one dollar on each one hundred dollars in valuation of the property so taxed, and a tax on each tithable in the city not exceeding two dollars, which tax shall be levied for general purposes, and to meet all contingent expenses of the city; but no ordinance levying a tax for general purposes shall continue in force, except for the collection of the tax levied under it, for a longer term than one year, unless repassed, but may be amended or repealed at any time; and the general tax ordinance shall be revised annually; and in all revisions of the tax ordinances, the city council is limited to raising a sum sufficient, as shown by the annual estimates, to meet the ordinary expenditures of the city, together with any deficit for a preceding year, and five hundred dollars for contingencies.

May pass by-laws.

May levy and collect taxes, &c.

§ 3. That said council be, and is hereby, authorized to levy and collect, at the same time, and in the same manner, that the general revenue is now authorized by law to be collected, a special tax not exceeding twenty-five cents on each one hundred dollars in valuation of all the taxable property in the city, for any term of years not exceeding five, including the year 1869, which special tax shall be collected in par funds only, and the revenue arising therefrom shall be set apart as a "sinking fund," and shall be used only for the purpose of paying the interest on the bonds and other debts of the city, and the principal of said bonds and debts as the same may become due.

May levy and collect special tax.

1869.

May open,  
grade, and pave  
streets, &c.

§ 4. That said council be, and is hereby, authorized and empowered to direct the opening and grading and paving, or bowldering or macadamizing, of all or any part of any street, alley, or square in the city, upon petition of a majority of the owners in quantity of the real estate abutting on the part to be improved, or without such petition, if two thirds of all the members of the city council concur, where a portion of the street, alley, or square has been already improved, or where the unimproved portion lies between two improved streets, and to levy and collect a special tax, at a rate per lineal foot, on all the real estate abutting on the part to be improved, sufficient to pay for the paving, bowldering, or macadamizing; and to direct the owners of real estate, upon any street or part of street or square in the city, to pave or otherwise improve the sidewalks in front of their real estate, in such manner as to the council shall seem best; and after notice in person or by publication of not less than sixty days, any such real estate owner shall fail, refuse, or neglect to make such pavement or improvement, to cause the same to be done, and to levy a special tax on the real estate sufficient to pay the expenses thereof and costs of levy.

May have sidewalks paved.

In relation to  
assessor.

§ 5. That the assessor of the city of Dayton shall have the same qualifications as members of the city council; and shall, before entering on the duties of his office, execute a bond, with good security, to be approved by the city council, payable to the city of Dayton, for the faithful performance of his duties according to law and the ordinances of the city; and he shall have a compensation for his services, payable out of the city treasury, which shall be fixed at a rate per list by the city council; and he shall proceed, in each year, as soon after he is qualified as may be, to assess all the taxable property of the city, affixing a fair actual cash valuation on the same, and also to assess the tithes of the city for taxation, and report his assessment to the city clerk before or during the first week in the month of May succeeding, and shall make an affidavit to the correctness of the same; and all vacancies in the office of assessor shall be filled by appointment of the city council.

Board of  
equalization.

§ 6. That as soon as the assessor shall have returned his assessment, as provided in the last preceding section, the clerk of the city shall call a meeting of the city council to convene at their usual place of meeting, for the purpose of sitting as a "board of equalization," of which meeting the clerk shall give at least ten days' notice by posting up notices in at least five public places in the city; at which meeting any tax-payer of the city, feeling himself aggrieved and believing the assessment of his property to be too high, may appear and make motion to the council to

have the same reduced; and the president, clerk, or any member of council, may, at the same time, make motion to have the assessment of the property of any tax payer increased; which motion shall be considered by the council, and the increase or reduction shall be made, a majority of the council concurring; but, after such meeting of the council as a board of equalization, no reduction or increase shall be made, nor shall any money paid as city taxes after that time be refunded, unless paid through error.

1869.

§ 7. That it shall be the duty of the assessor to visit personally every tax-payer of the city—if not, their agents, if any in the city—and to see and inspect all real estate assessed by him, and to examine all tax-payers on oath touching the lists of such; and should any tax-payer or agent refuse to furnish or disclose his list of taxable property, or to make oath touching the same, the assessor shall report such tax-payer or agent to the mayor's court, and the court shall forthwith summon such tax-payer or agent to appear before him, and may order him to furnish his list to the assessor, under oath, and enforce such order by proceedings as in cases of contempt, and may fine such tax-payer or agent in any sum not exceeding twenty dollars and the costs of the proceeding; and in case the assessor shall be unable to see any tax-payer or agent, he shall make out his list by the best means in his power from actual survey. Should any assessor knowingly refuse or neglect to assess any taxable property or title in the city as required by law, he, with his surety, shall be liable on his official bond by motion or action in the mayor's court, to pay the amount of the taxes properly assessable thereon, and fifty per centum damages; and the president of council and the city clerk may, after the assessor has made his return, require him to assess any taxable property which may have been omitted by him, and make return thereof.

Further duties of assessor.

§ 8. That the assessor's books shall remain in the city clerk's office open to the inspection of any one concerned; and the clerk shall at once, on their being reported to him, cause a duplicate thereof to be made and filed with the city treasurer, together with the tax bills; and, until the fifteenth day of August next succeeding, all tax-payers shall have the privilege of paying their taxes and tithes to the city treasurer; and, upon their doing so, the city treasurer shall deliver to them their tax bill received by him.

Assessor's book subject to inspection.

§ 9. That all tax bills remaining unpaid on the fifteenth of August in each year shall be charged with a penalty of twenty per centum thereon, and shall be listed by the city clerk in a book to be kept for that purpose, and deliv-

20 per cent. to be added on unpaid taxes, &amp;c. And who to collect same.

1869. ered to the city marshal or such tax collector as may be appointed by the city council, he receipting to the city clerk for the same, for collection, having first executed a bond, with good security, payable to the city of Dayton, to be approved by the city council, for the faithful performance of his duty, and to account for and pay over to the city treasurer all money collected by him on such delinquent tax bills as fast as collected; and the city marshal or collector shall at once proceed to collect the delinquent tax bills and penalties by visiting the delinquent tax-payers or their agents, if in the city, and distraining and selling, if necessary, according to law; and the city marshal or collector shall be allowed a per centum on all sums collected by him, to be fixed by the city council, out of the penalties added, and fifty cents for each distress, and one dollar for each sale, to be paid as costs by the tax-payers, for which additional property may be distrained and sold at the same time; and the city marshal or collector must, by the first day of November in each year, make a return to the city clerk of delinquent tax bills in his hands unpaid, with his affidavit on each, stating what he has done with such bill; and the same shall then be charged with a further penalty of twenty per centum; and the marshal or collector, with his surety, shall be liable upon his bond, by motion or action in the mayor's court, to pay the amount of taxes and penalty charged on any delinquent tax bill in his hands, and ten per centum damages thereon, where he may have failed or refused to discharge any of the duties enjoined upon him in the collection thereof, or failing to return such delinquent tax bill as herein required.

When special taxes may be collected.

§ 10. That special taxes may be levied at any time when necessary for the purposes herein specified; and when levied, the assessor shall at once proceed to assess the property for the same; and such assessment shall be returned within one month of the time the taxes are levied. The taxes shall be payable to the city treasurer within two months after the time the assessments are severally made; and collected by distress by the city marshal or collector within three months after the time for payment to the city treasurer shall expire, and subject to like costs, penalties, and proceedings that general taxes are; and officers collecting the same are required to perform like duties, under like liabilities, as in cases of collecting general taxes.

How collecting & disbursing officers to be paid.

§ 11. No collecting or disbursing officer of the city shall be allowed to retain out of the moneys coming into his hands any amount for services, or for claims, which he may have or assert against the city; but all claims of such officers, for services or otherwise, shall be paid out the

city treasury when appropriated by the city council, and all applications of the money of the city, otherwise than as directed by law, shall be deemed an embezzlement; and any officer or other person who shall embezzle or fraudulently convert to his own use bullion, money, bank notes, or other security for money, or evidences of debt, or claim, or any effects or property of the city of Dayton, shall be confined in the penitentiary not less than one nor more than ten years.

1869.

§ 12. The city council may make further regulations by ordinance or resolutions for the collection, safe-keeping, and disbursement of the public money and taxes of the city, not in conflict with the provisions of this act.

§ 13. Every officer of the city of Dayton, before entering upon the discharge of the duties of the office to which he has been elected or appointed, shall take an oath before the mayor or other person authorized to administer oaths, that he will support the Constitution of the United States, and the Constitution and laws of the Commonwealth of Kentucky, and the by-laws and ordinances of the city of Dayton, and that he will faithfully perform the duties of the office to which he is elected to the best of his ability.

Officers to take oath.

§ 14. The city clerk shall perform the duties of city auditor, and shall keep the accounts of the city, and of the officers of the city. He must, at least once every three months, and once in each month, if the city council, by resolution, require it, lay before the city council a general statement of the finances of the city, and all collecting and disbursing officers shall report monthly to him; and at the end of each fiscal year he shall lay before the city council a detailed statement of the receipts and disbursements of the city for the preceding, and a detailed estimate for the succeeding year.

City clerk to be city auditor; his duties.

§ 15. That the records of the city council of the city of Dayton, and all bonds, deeds, contracts, and other instruments of writing, executed to said city, or on file among the papers of the city, shall be, and are hereby declared to be, public records, and copies thereof, certified by the clerk of said city, under his hand and the seal of the city, shall be evidence in all courts, and between all parties, in the same manner that the originals would, and the clerk shall be entitled to the same fees for copies of any record, or bond, or other paper on file as aforesaid, that the clerks of county courts are entitled to for like services, except that he shall charge no fee for the copy of any record, bond, or paper on file, when the same shall be required by the mayor or other officer of the city in aid and furtherance of their duties as such officer.

Records, &amp;c. of city declared public records.

Certified copies of same to be evidence, &amp; fees of clerk.

§ 16. That if the clerk of said city shall willfully make any false entry on the record books of the council with

Penalty if clerk makes false entries, &amp;c.

1869. intent to cheat or defraud any person or persons, or company or corporation, or shall knowingly certify any copy of a record or paper as true, when it is not true, with the like intent to cheat or defraud, or if he shall willfully destroy, alter, or obliterate any paper on file, with like intent to cheat or defraud, he shall be deemed guilty of felony, and shall be confined in the penitentiary not less than one nor more than ten years, at the discretion of a jury.

Salary of city clerk.

§ 17. That the salary of the city clerk may be increased or diminished at any time by order of the city council; and the council shall make to the city clerk an allowance equivalent to the services required of, and performed by, him.

Street commissioner to be appointed by council instead of elected by citizens, term of office, &c.

§ 18. That all that portion of the second section of the act of which this is amendatory, which requires that the street commissioner shall be elected by the people, and that he shall act as *ex-officio* wharfmaster, be, and the same is hereby, repealed; and that hereafter the city council shall, at their first meeting in each year, appoint a street commissioner, who shall continue in office and act as such during the current year, unless sooner discharged by the city council for misconduct in office; and the city council may make an allowance to the street commissioner, not to exceed three dollars a day for every day the said commissioner may be actually engaged in work on the streets of the city; and the said street commissioner shall, at all times, and in all things pertaining to his duties on the streets, be governed by the orders from time to time issued by the council, or the street committee thereof.

City marshal to act as wharfmaster.

§ 19. That hereafter the city marshal shall act as wharfmaster, and shall collect and promptly pay over to the city treasurer all money collected by him for wharfage due the city; and when the same is not promptly paid on demand, may levy and distrain upon any boats, flats, floats, rafts, or other water crafts, for which wharfage is due and payable, or upon a sufficiency of the tackle, furniture, and appurtenances to the same belonging, to satisfy any such bill and costs of sale and levy, and sell the same as under an ordinary execution of *fi. fa.*

Conflicting portions of act to which this is an amendment repealed.

§ 20. That section seventh of the act of which this act is amendatory, be, and the same, and all other acts heretofore passed, and now in force for the government of the city of Dayton in conflict with this act, be, and the same are hereby, repealed.

When act to take effect, &c.

§ 21. This act shall take effect from its passage: *Provided*, The second, ninth, and nineteenth sections shall not take effect until the same shall have been submitted to the legal voters of said city and approved of by a majority of those voting, which submission shall be made at the next municipal election; and all persons who shall vote illegal-

ly at such election shall be liable to the same pains and penalties as are imposed for illegal voting at other elections held in said city. The proper officer of said election shall propound to each qualified voter the following questions: 1. Are you for or against the second section of the amended charter? 2. Are you for or against the ninth section of the amended charter? 3. Are you for or against the nineteenth section of the amended charter? And the vote of each voter shall be recorded for or against each section as indicated by the answer. Within three days after the holding of said election the mayor of said city shall make proclamation of the vote; and such sections as shall have received a majority of the votes cast shall be adopted, and be in full force from the time of such proclamation; and such as shall not have received a majority as aforesaid shall be rejected and constitute no part of the law.

§ 22. That this act shall take effect from and after its passage.

Approved February 24, 1869.

1869.