

*Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1863.* Fredericton, NB: G. E. Fenety, Printer to the Queen's Most Excellent Majesty, 1863.

26 Victoria – Chapter 33

**An Act in addition to and in amendment of an Act to alter and amend the Act to incorporate the City of Fredericton. Passed 20th April, 1863.**

Section.	Section.
1. Administration of affairs, in whom vested.	12. In any case of protest, Mayor or person presiding to swear witnesses.
2. Rate-payers only allowed to engage in trade, &c., without licence.	13. Mayor may issue Subpoena to compel attendance of witness, or production of papers, &c.
3. Mayor to grant licence; licence to be in force one year.	14. Witness neglecting Subpoena, penalty.
4. Meaning of term 'Councillor.'	15. Mayor not to have jurisdiction in civil suits.
5. Designation of the Meetings of City Council.	16. Power of Mayor and one Alderman to try certain cases; Summons or Warrant may be served or executed in any part of County.
6. Person nominating candidate for office, to produce Certificate that such candidate has been assessed, and paid assessment; presiding officer not to enter name in Poll Book, unless Certificate is produced; penalty.	17. Justice of the Peace not to try offences committed within City; exceptions.
7. City Treasurer to furnish duplicate Receipts.	18. In absence of Mayor, Justice of the Peace to try cases.
8. When presiding officer is unable to attend, Mayor or City Clerk to appoint; time for opening Court at nomination; time for holding Court on polling day.	19. City Clerk to be Attorney of Supreme Court.
9. If election not held on day appointed, Mayor to order new election within ten days.	20. Persons convicted of any offence, how punished.
10. If election be declared void, when new election to be held.	21. Fines, &c., how recovered.
11. Protest against election, when to be made.	22. Act 22 Vic. c. 8, in part repealed.
	23. Accounts to be published.
	24. Council to establish rates of anchorage.
	25. Mayor, &c. accepting certain offices, penalty.

Be it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. The administration of the fiscal, prudential and municipal affairs of the City of Fredericton, shall be vested in one principal officer, who shall be styled the Mayor of the City, and in ten other persons, and in no other power or authority whatever, two of whom shall be annually elected for

each Ward of the said City, and who shall be styled Aldermen, all of whom shall be annually elected as directed in and by an Act made and passed in the twenty second year of Her Majesty's Reign, intituled *An Act to alter and amend the Act to incorporate the City of Fredericton*, and in and by this Act; and such Mayor and Aldermen shall be a body corporate and politic in deed, fact, and name, by the name of 'The Mayor, Aldermen and Commonalty of the City of Fredericton,' and in and by that name to sue and be sued; and all bye laws made by the said Mayor, Aldermen and Commonalty, in City Council convened, shall express to be enacted by 'The Mayor, Aldermen and Commonalty of the City of Fredericton.'

2. No person not being a rate-payer in the City of Fredericton, or the County of York, shall engage in any trade, profession, occupation or calling within the limits of the said City of Fredericton, under a penalty not exceeding twenty dollars for each and every offence, unless he obtain a licence therefor as hereinafter directed.

3. The Mayor of the said City is hereby authorized to ask, demand and receive for the use of the City, a sum not exceeding twenty dollars from any person not being a rate-payer in the said City or County, engaging or wishing to engage in any trade, profession, occupation or calling within the said City; and on the receipt of such sum, to grant unto such person a licence under the Seal of the City, to engage in any such trade, profession, occupation, or calling; which licence shall have force only for one year from the date thereof, or until the said person shall be rated or assessed in the general assessment of the said City.

4. Whenever in the said Act to which this is an amendment of and addition to, the words 'Councillor' or 'Councillors' occur, they shall be deemed to mean Alderman or Aldermen, as the case may occur.

5. When the Mayor and Aldermen meet in Council for the despatch of business, such meetings shall be designated 'The meetings of the City Council.'

6. At any election for Mayor, Aldermen, or Assessors, an elector nominating any person as a candidate for any of the said offices, shall produce to the presiding officer or person holding such election, a receipt or certificate of the City Treasurer, shewing that the person so nominated has been assessed as provided for in and by the sixth Section of the said Act to which this Act is an amendment, and that he has paid such assessment twenty days before said election; and the presiding officer or person holding such election, shall not enter in the Poll Book the name of any person as a candidate, unless such receipt or certificate be produced; for each and every wilful violation of the provisions of this Section, by any presiding officer or person holding any City Election, he shall forfeit and pay a sum of twelve dollars.

7. The City Treasurer shall furnish a duplicate receipt to any rate-payer in the City requiring the same.

8. Should any presiding officer, or person appointed to hold any City Election, from any cause be unable to attend at the time and place appointed for holding the election, the Mayor, or in his

absence, the City Clerk, shall, on receiving notice of such inability, forthwith appoint a person to hold such election; and such person shall be sworn to discharge the duties of said office by the Mayor, if appointed by him, or by the City Clerk, if appointed by him; if such application be made on the morning of the day of holding such election, and there be not time after the person so appointed shall have been sworn in, to open the Court for nomination at nine o'clock in the forenoon, the said person so appointed and sworn shall forthwith, after being sworn, open and continue the Court for nomination open for at least one half hour, but in no case to close the said Court for nomination before ten o'clock on the forenoon of the same day, nor shall he open any Court for nomination after twelve o'clock noon of the day appointed for holding any such election; if the Court for polling votes be opened after ten o'clock, and before twelve o'clock noon, the said presiding officer shall keep the said Court for polling votes open as many minutes after four o'clock in the afternoon, as will keep the said Court for polling votes open six consecutive hours.

9. If any election ordered to be held on a particular day, shall from any cause not be held on that day, and the same be duly certified to the Mayor by the City Clerk, it shall be lawful for the Mayor to order an election in lieu thereof, without calling the Council together, said election to take place within not less than ten days from the date of such order; and such order shall be directed to the City Clerk, who shall forthwith cause public notice thereof to be given by handbills posted up in the said City, and by publication in one of the Newspapers published in the City.

10. Upon any election protested against being declared null and void by the City Council, the new election ordered thereupon may be held within not less than seven days after the day of ordering such election, notice to be given as directed in the preceding Section.

11. No petition complaining of an undue election of Mayor, Aldermen, or Assessors, shall be received or inquired into by the City Council unless within two hours after the declaration of the person so elected, an elector or candidate at such election do make, subscribe, and deliver to the presiding officer or person holding such election, a written protest against the return of the person so declared elected, stating the ground upon which he protests; and the inquiry shall be confined to the grounds stated in the protest.

12. The Mayor or Chairman presiding at any meeting of the City Council convened to try any protest against any election, shall have power and authority to swear all persons produced as witnesses before the Council, and any such person being convicted of swearing falsely, shall be deemed guilty of perjury.

13. The Mayor shall have power to issue Subpoenas to require and compel the attendance of witnesses before the City Council, to give evidence on such enquiry, and to produce any books, papers or documents that may be required by either party.

14. Any person being duly subpoenaed, and neglecting or refusing to attend, shall forfeit and pay a fine not exceeding five dollars; and any person attending and refusing to be sworn or to give evidence, without sufficient excuse, shall be considered in contempt, and may for every such contempt be committed by the Mayor or Chairman to the common gaol of the County of York, for

any period not exceeding twenty four hours at any one time, or fined at the discretion of the Council; which fine shall not exceed the sum of eight dollars, and shall be recovered on information and proof as other fines are to be collected or imposed by this Act, or the Act to which this Act is an amendment and addition.

15. Notwithstanding any thing contained in the Act passed in the twenty second year of Her Majesty's Reign, intituled *An Act to alter and amend the Act to incorporate the City of Fredericton*, the Mayor of the said City shall have no jurisdiction in civil cases.

16. The Mayor of the City of Fredericton, with one of the Aldermen of the City, shall have the sole power to hear, try and determine all cases of information and complaint of offences committed within the said City that can be heard, tried and determined under the provisions of the Revised Statutes, Title xxxvii, Chapter 138, except for violation of any of the City bye laws: Any summons or warrant issued by the said Mayor or Aldermen, upon any such information or complaint, may be served or executed in any part of the County of York, and shall have the same force, power, and effect, as summons or warrants issued by any Justice of the Peace for the said County.

17. It shall not be lawful for any Justice of the Peace in for the County of York, other than the Mayor and Alderman as aforesaid, to hear, try or determine any information or complaint for offences alleged to have been committed within the said City, to be heard, tried and determined in the manner prescribed by the Revised Statutes, Title xxxvii, Chapter 138, 'Of Summary Convictions;' and any conviction by any Justice other than the Mayor and Alderman, except as hereinafter directed, shall be null and void; provided that nothing herein contained shall apply to trials for larceny under the Revised Statutes, Title xl, Chapter 159, Section 26.

18. In the absence of the Mayor from the City, or his inability to attend from any cause, any two Justices of the Peace in and for the said County shall have power to hear, try and determine any of the cases referred to in the two preceding Sections.

19. The City Clerk shall be an Attorney of the Supreme Court.

20. Persons convicted before the Mayor for any offence tried in a summary manner, or before any three Justices of the Peace in the said City, may be sentenced to be imprisoned in the common gaol of the County of York to hard labour; and it shall be lawful for the Mayor and Corporation, with the assent of the County Council of the County of York, to enclose and use such portion of the ground around and belonging to the said gaol, for the purposes of such labour, as they may deem necessary, and to make such rules, ordinances and bye laws relating thereto, and the government of the premises, and the nature of the labour, as they may deem requisite; the said rules, ordinances, or bye laws, before going into operation, receiving the approval and sanction of the Governor in Council.

21. All fines, penalties and forfeitures to be recovered by the provisions of this Act, may be recovered with the costs of prosecuting the same, in the manner prescribed by the Act to which this Act is an amendment of and addition to.

22. So much of an Act made and passed in the twenty second year of Her Majesty's Reign, intituled *An Act to alter and amend the Act to incorporate the City of Fredericton*, as is inconsistent with this Act, is hereby repealed, except as to any thing done, pending, or in progress and undetermined, under and by virtue thereof.

23. The Accounts of the said City shall be published at least one week before the annual election of Mayor for the said City, instead of the time now prescribed by law.

24. The City Council shall have power and authority to establish tolls and rates for anchorage, within the limits for anchorage.

25. Any Mayor or Alderman of the said City, who shall accept or hold office contrary to the provisions of the tenth Section of an Act made and passed in the twenty second year of the Reign of Her Majesty Queen Victoria, intituled *An Act to alter and amend the Act to incorporate the City of Fredericton*, shall forfeit and pay the sum of forty dollars for every offence; and the acceptance of office by such Mayor or Alderman, and every day's continuance in office by such Mayor or Alderman, shall be a substantive offence.