

SPECIAL LAWS

OF

MINNESOTA.

PASSED AND APPROVED AT THE EIGHTEENTH SESSION OF THE STATE LEGISLATURE, COMMENCING JANUARY FOURTH, ONE THOUSAND EIGHT HUNDRED AND SEVENTY-SIX, AND TERMINATING MARCH THIRD, ONE THOUSAND EIGHT HUNDRED AND SEVENTY-SIX.

CHAPTER I.

AN ACT TO INCORPORATE THE CITY OF AUSTIN.

Be it enacted by the Legislature of the State of Minnesota :

CHAPTER I.

SECTION 1. All that part of the county of Mower, State of Minnesota, within the limits and boundaries hereinafter described, shall be a city by the name of Austin, and the people now inhabiting, and those who shall hereafter inhabit within the district of county herein described, shall be a municipal corporation by the name of the "city of Austin," shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter especially granted. And the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded in all courts of law and equity, and shall have a common seal, and may change and alter the same at pleasure, [and may take, hold and purchase,] lease and convey such real, personal and mixed estate as the purposes of the corporation may require within or without the limits of the city.

SEC. 2. The following described territory in the county of Mower, in this state, shall constitute the city of Austin, viz: The north half of section numbered three, all of the south half of section numbered three, lying west of the Cedar river, all that part of the southwest

quarter of section numbered two, surveyed and platted as part of Balcom's addition to the village of Austin. The northwest quarter of section numbered two, and the west half of the northeast quarter of section numbered two, all in township numbered one hundred and two, north of range eighteen west.

SEC. 3. The said city shall be divided in three wards to be called first, second and third, limited, bounded and, described as follows, to-wit: All that territory lying east of the Cedar river, and included in the designated boundaries of said city, shall constitute the Third ward; all that territory within the designated boundaries of said city, which lies west of the Cedar river, and north of a line drawn west from the Cedar river, through the center of Bridge and Center streets, in said city, to the west boundary thereof, shall constitute the First ward; all that territory included within the limits of said city, and not included in the First and Third wards of said city, shall constitute the Second ward.

CHAPTER II.

ELECTIVE OFFICERS AND ELECTIONS.

SECTION 1. There shall be an annual election for elective officers, hereinafter provided, held on the second Tuesday of March of each year, at such place in each ward as the common council shall designate. And the polls shall be kept open from nine o'clock in the forenoon until five o'clock in the afternoon, and ten days notice shall be given by the city recorder, of the time and place of holding elections in each ward of said city, by causing a notice thereof to be posted in three of the most public places in each ward, and by publishing the same one week in the official paper of the city.

SEC. 2. The elective officers of the city shall be a mayor, treasurer, recorder and one assessor all of whom shall have been residents of the city four months next preceding their election, and qualified voters. Each ward shall elect two alderman, one justice of the peace, and one constable, all of whom shall have been residents in their respective wards, thirty days next preceding their election, and qualified voters. At the first election for city officers, there shall be elected in each ward, two aldermen, one for one year, and one for two years, at every annual election thereafter, one alderman shall be elected from each ward who shall hold his office two years, or until his successor is elected and qualified. The justice of the peace shall hold their offices for two years, and until their successors are elected and qualified. The constables shall hold their office for two years, and until their successors are elected and qualified. No alderman of said city, shall be eligible to any office filled by appointment, or election by the city council; *Provided*, that in the absence of the mayor from the city, or his inability to attend to the duties of his office, an alderman shall be chosen acting mayor.

SEC. 3. Every person appointed to any office by the common council, or elected to any office by the people, may be removed from said office, by a vote of two-thirds of all the aldermen authorized to be elected. But no officer elected by the people, shall be removed,

except for causes, nor unless furnished with a written statement of the charges against him, nor until he shall have had a reasonable opportunity to be heard in his defense. The common council shall fix a time and place for the trial of such officer, of which not less than ten days' notice shall be given; and have power to compel the attendance of witnesses, and the production of books and papers, and to hear and determine the case; and if said officer shall neglect to appear and answer the charges against him, the common council may declare the office vacant.

SEC. 4. Whenever a vacancy shall occur in the office of mayor or alderman by death, removal, resignation or otherwise, the common council shall have power, and it shall be their duty to declare the office vacant by resolution entered upon the minutes. Such vacancy shall be filled by a new election, which shall be ordered by the common council within ten days after said vacancy is declared, and held within twenty days after such declaration, and reasonable notice of such election shall be given. Any vacancy happening in any other office shall be filled by the common council, unless otherwise provided for. The person elected or appointed to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term, and with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill. *Provided*, That no special election shall be held to fill any vacancy in any elective office when such vacancy occurs within three months of the expiration of their term of office. In such case the vacant office shall be filled by the common council.

SEC. 5. All elections by the people shall be by ballots, and each ballot shall contain the names of the persons voted for with a proper designation of the office written or printed thereon, and a plurality of votes shall constitute an election. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council at such time and in such manner, as they shall direct.

SEC. 6. All persons entitled to vote for state or county officers, and who reside in the ward where they offer to vote shall be entitled to vote for any officer to be elected under this law, provided their names shall have been duly inserted in the list of qualified electors of the ward in which they reside, as in the case of the election of state and county officers: and the different wards established by law shall constitute election districts for state and county as well as city elections and the mode of conducting all state and county elections in this city shall be in the manner herein provided in reference to city elections, except that the returns thereof shall be made by the judges of election to the county auditor of the county of Mower within the time and manner prescribed by law.

SEC. 7. The elections in said city shall be held and conducted by the alderman in such ward and one qualified voter and resident of each ward to be appointed by a vote of the electors present, who shall be the judges of the elections in their respective wards in all elections of state, county or city officers, and shall take the usual oaths or affirmations as prescribed by the general laws of the state to be taken by judges of

elections, and shall have power to appoint clerks of such elections and to administer the necessary oaths. Said elections shall be held and conducted in the manner and under the same penalties as provided for state and county elections and vacancies among the judges thereof filled as required by the laws of this state regarding elections. *Provided*, That no alderman shall be judge of an election at which he is a candidate for any office. In such case the office of judge of election shall be considered vacant ; and filled as provided by law.

SEC. 8. When a city election shall be closed, and the number of votes for each person voted for shall have been counted and ascertained, the judges shall make returns thereof, stating therein the number of votes for each person for each and every office, and shall deliver or cause to be delivered such returns to the recorder of the common council on the day of any election, and the common council shall meet and canvass said returns, and declare the result, as it appears from the same, within one day thereafter. The recorder of the common council shall forthwith notify the officer or officers elected, of their election by written notice served upon such officer in person, or left at their usual place of abode, with some person of suitable age and discretion.

SEC. 9. Special elections to fill vacancies, or for any other purpose, shall be held and conducted in the same manner, and the returns thereof made in the same form and manner as in general and annual elections, and within such time as may be prescribed by resolution.

SEC. 10. Any officer removing from the city or ward, for which he is elected, or any officer who shall refuse or neglect for ten days after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill the vacancy as herein prescribed.

SEC. 11. The term of every officer elected under this law, shall commence on the third Tuesday of March, of the year for which he was elected, and shall, unless otherwise provided, continue for one year, and until his successor is elected and qualified.

SEC. 12. Should there be a failure by the people to elect any officer herein required to be elected on the day designated, the common council may order a new election to be held, ten days' notice of time and place being given.

CHAPTER III.

OFFICERS—THEIR POWERS AND DUTIES.

SECTION 1. Every person elected or appointed to any office under this act, shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same, duly certified by the officer administering the same, with the city recorder; and the treasurer, street commissioner, recorder, and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Austin a bond, with at least two sureties, satisfactory to the common council; and

such bonds shall contain such penal sum, and such conditions as the common council may deem proper, and they may from time to time, require new or additional bonds, and remove from office any officer refusing or neglecting to give the same.

SEC. 2. The mayor shall be *ex-officio* president of the common council, but shall not vote on any question, unless in case of a tie, when he may give the casting vote. He shall take care that the laws of the state, and the ordinances of the city, are duly observed and enforced, and that all other executive officers discharge their respective duties. He shall from time to time give the common council such information, and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer, and head of the police of the city, and shall appoint all police and watchmen, subject to the approval of the common council; and in case of a riot or other disturbances, he may appoint as many special or temporary constables as he may deem necessary; and which temporary constables shall act until discharged by the mayor. All ordinances or resolutions shall, before they take effect, be presented to the mayor, and if he approves thereof, he shall sign the same, and such as he shall not sign, he shall return to the common council with his objections thereto, by depositing the same with the recorder, to be presented to the common council at their next meeting thereafter; and upon the return of any resolution or ordinance by the mayor, the same vote by which the same was passed shall be reconsidered, and if after such reconsideration, the common council shall pass the same by a vote of two-thirds of those present and voting, it shall have the same effect as if approved by the mayor, and in such case, the vote shall be by ayes and nays, which shall be entered in the record by the recorder. If an ordinance or resolution shall not be returned within five days (Sunday excepted,) after it shall have been presented to him, the same shall have the same effect as if approved by him.

SEC. 3. In case the mayor shall be guilty of any willful oppression, or corrupt partiality in the discharge of the duties of his office, he shall be liable to be indicted in the district court, for Mower county, and on conviction, he shall be fined, not more than five hundred dollars, and the court shall have power (on recommendation of the jury,) to add to the judgment of the court, that he be removed from office.

SEC. 4. In case the mayor shall be absent from any meeting of the common council, they shall proceed to elect of their own number, a temporary presiding officer, who, for the time being, shall discharge all the duties of the mayor. In case of the absence of the mayor from the city or his inability from any reason, to discharge the duties of his office, the council shall elect by ballot from their own number, an officer who shall be styled acting mayor, and all actions performed by him shall have the same force and validity as if performed by the mayor.

SEC. 5. There shall be a recorder of said city, styled the city recorder, who shall keep his office at the place of meeting of the common council, or such other place convenient thereto as the common council may determine. He shall keep the corporate seal and all the papers and records of the city, and keep a record of the proceedings of the common council, at whose meeting it shall be his duty to attend.

Copies of all papers filed in office, and transcripts from all records of the common council certified by him under the corporate seal, shall be evidence in all courts as if the original were produced. He shall draw and countersign all orders on the treasurer in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof in books provided for that purpose. The city recorder shall have power to administer oaths and affirmations. It shall be the duty of the city recorder to report to the common council the financial condition of the city, whenever the common council shall require. He shall make and keep a list of outstanding city bonds, to whom issued, for what purposes, when and where payable, and the rate of interest they respectively bear, and recommend such action to the common council as will secure the punctual payment of the principal and interest of such bonds. He shall report annually on or about the first day of March to the common council, an estimate of the expenses of the city, and likewise the revenue necessary to be raised for the current year; and the fiscal year shall commence on the first day of March. He shall make or cause to be made estimates of the expenses of any work, to be done by the city, and countersign all contracts made in behalf of the city, and certificates of work, authorized by any committee of the common council or by any city officer. And every contract made in behalf of the city, or to which the city is a party, shall be void unless signed by the recorder. The city recorder shall keep regular books of account, in which he shall enter all indebtedness of the city, and which shall at all times show the precise financial condition of the city; the amount of bonds, orders, certificates or other evidences of indebtedness which have been redeemed, and the amount of each outstanding, to countersign all bonds, orders or other evidences of indebtedness of the city, and to keep accurate accounts thereof, stating to whom and for what purpose issued, and the amount thereof; to keep accounts of all receiving and disbursing officers of the city, showing the amount they have received from the different sources of revenue, and the amount which they have disbursed under the direction of the common council. He shall keep a list of all certificates issued for work or other purpose, and before the levy by the common council of any special tax upon the property in the city, or any part thereof, shall report to the common council a schedule of all lots or parcels of lands which may be subject to the purposed special tax or assessment, and also the amount of such special tax or assessment which it may be necessary to levy on such lots or parcels of lands, which said schedule shall be certified by the affidavit of the recorder, and shall be *prima facie* evidence of the facts therein stated in all cases wherein the validity of such special tax or assessment shall come in question. The common council shall, if from such report they deem such special tax legal and just, cause the same to be levied in pursuance of the provisions of this act. If, before the first day of January of any year, the amount expended, or to be expended chargeable to any city fund, (adding thereto the current expenses estimated for the remainder of the fiscal year and chargeable to such fund) shall be equal to three-fourths of the tax authorized to be raised or revenue estimated for such fund; he shall report at once the same to the common council, and he shall not countersign any contract chargeable to such fund until

the amount or taxes actually collected be ascertained; and during the remainder of the fiscal year he shall not countersign any contract, the expenses of which shall exceed the revenue actually collected for the fund to which such expenses are properly chargeable. The recorder shall examine all the reports, books, papers, vouchers and accounts of the city treasurer, and from time to time shall perform such other duties as the common council may direct. And he shall keep a record of all his acts and doings, and keep a book in which he shall enter all contracts with an index thereto; such record shall be open to the inspection of all parties interested. He shall not be interested directly or indirectly in any contract or job to which the city is a party, or in which the city is interested; and any contract in which he may be interested shall be null and void. The city recorder shall receive a compensation to be paid by the common council; *provided*, that the compensation paid to him in any one year shall not exceed one hundred and fifty dollars.

SEC. 6. The common council shall have power to elect an attorney for the city, who shall perform all professional services incident to his office, and when required, shall furnish opinions in writing upon any subjects submitted to him by the common council or its committees.

SEC. 7. The treasurer shall receive all moneys belonging to the city, including license money and fines, and keep accurate and detailed account thereof, in such manner as the common council shall from time to time direct. The treasurer shall exhibit to the common council, at least fifteen days before the annual election, or sooner if required by them, a full and detailed account of the receipts and expenditures after the date of the last annual report, and also of the state of the treasury, which account shall be filed with the clerk, and a copy of the same published in one or more of the city newspapers. He shall also report to the common council at such times and in such manner as they may require.

SEC. 8. There may be a chief of police of said city, who shall be appointed by the mayor, by and with the consent of the common council, and who shall perform such duties as shall be prescribed by the common council for the preservation of the public peace. All police of said city shall possess the powers of constables at common law, or by the laws of this state; and it shall be their duty to execute and serve all warrants, process, commitments, and all writs whatsoever issued by the city justice for any violation of the laws of the state of Minnesota, or of the ordinances or by-laws of said city; and also all writs and process whatsoever issued by the city justice in civil actions; and they shall have authority to pursue and arrest any person fleeing from justice, in any part of this state; and when performing the duties of constables aforesaid, shall be entitled to like fees. Watchmen shall have authority to arrest and detain any person guilty of any breach of the peace, or of any violation of the laws of this state, or of the ordinances or by-laws of the city; and for these purposes shall possess the powers of constables at common law, while on duty.

SEC. 9. The common council shall at their first meeting after the annual election, or an adjournment thereof, elect by ballot a street commissioner, who shall hold his office for one year and until his successor is elected and qualified. It shall be the duty of the street

commissioner to conduct, execute or superintend any such work, repairs or improvements upon the streets, alleys, bridges, public grounds or public works of said city as may be committed to him by the common council, and he shall be required to execute a bond, with sureties satisfactory to the common council, conditioned for the faithful performance of his duties, and that he will account for all moneys collected or received by him in his official capacity or belonging to the city. He shall receive such compensation as the common council may direct not to exceed one hundred and fifty dollars per annum.

SEC. 10. The assessor of the city of Austin shall qualify and shall perform the duties pertaining to his office in accordance with the general statutes of this state in regard to township assessors; and upon the completion of the assessment roll, he shall return the same to the common council who may alter, revise and equalize the same as they may deem it just and proper, and said assessment as revised and equalized by the common council shall be final, subject to the revision of the state board of equalization. Said city assessor shall hold his office for one year, and until his successor is elected and qualified.

The assessor shall receive such compensation as the common council shall direct, provided that the compensation paid to him shall not exceed in any one year, one hundred dollars for assessing the personal property and one hundred and fifty dollars for assessing the personal and real estate property in said city.

SEC. 11. The justices of the peace elected in each ward of the city, shall possess all the authority, power and rights of a justice of the peace of the county of Mower, under the laws of this state, and shall have in addition thereto, jurisdiction to hear and try all complaints for violation of any provision or provisions of the city charter, or any ordinance, by-laws, rule or regulation made or adopted under, or by virtue thereof, and of all cases cognizable before a justice of the peace, in which the city is a party, and of all writs, prosecutions and proceedings in the recovery of any fine, forfeiture or penalty, under any by-law, ordinance or regulation of the city or its charter, and in all cases of offenses committed against the same. And the said justice of the peace shall have jurisdiction in cases of larceny, and may hear and try the same where the amount claimed to have been stolen, does not exceed the sum of twenty dollars. In all prosecutions for assaults, batteries and affrays, and for all other offenses not indictable, and in all civil suits or proceedings before said justices of the peace, the same forms and proceedings shall be had and used, when not otherwise directed, as are established and required to be had in civil and criminal actions, by the laws of this state, before a justice of the peace; and appeals from the judgments and decisions of said justices of the peace, shall be allowed as now provided by law, for appeals from judgments rendered by justices of the peace. In all cases of convictions for assaults, batteries and affrays within said city, and in all cases of convictions under any ordinances of the city for breach of the peace, disorderly conduct, keeping houses of ill-fame, or frequenting the same, and of keeping and maintaining disorderly or ill-governed houses, the said justices shall have power, in addition to the fines or penalty imposed, to compel said offenders to give security for their good behavior, and to keep the peace for a period not exceeding six months, and in a sum

not exceeding five hundred dollars. The said justices of the peace shall have the same power and authority in cases of contempt, as a justice of the peace, under laws now in force. All fines and penalties imposed by the justices of the peace, for offenses committed within the city limits, or for the violation of any ordinance, by-law or regulation of said city, shall belong to and be a part of the finances of the city.

SEC. 12. The justices of the peace shall, as often as the common council may require, report to the common council all the proceedings instituted before them, in which the city is interested, and shall at the same time account for and pay over to the city treasury, all fines and penalties collected or received by them belonging to said city; and said justices shall be entitled to receive from the county of Mower, such fees in criminal cases, as are allowed by statute to justices of the peace for similar services.

SEC. 13. Said justices of the peace shall be in attendance at their offices for the transaction of business at such reasonable hours as the common council may prescribe, and complaints may be made to, and writs and process issued by them at all times in court or otherwise.

SEC. 14. In all suits brought in behalf of said city for the recovery of any forfeiture, fine or penalty, in all cases arising on complaints for the violation of any ordinance, by-law or regulation of said city, and on complaints for assault, battery or affray, or other misdemeanor, or criminal offence, not indictable, committed within said city, the said justices shall be authorized to tax with the other legal costs, one dollar for each trial for the benefit of said city and their residence in said city shall not deprive them of jurisdiction of actions brought in favor of or against said city, when said actions are otherwise within the jurisdiction of a justice of the peace. *Provided*, That said fee of one dollar shall not be collected from the county of Mower, or city of Austin.

SEC. 15. The constables of said city shall have the powers of constables under the general laws of this state, and any process issued by any justice of the peace of said city, may be served by the sheriff of Mower county, police officer or constable of said city, and all general laws of this state applicable to the service and return of any such process shall govern in the service thereof. The sheriff of Mower county, constables and police officers of said city shall have the power to arrest any person violating any law, by-law, ordinance, rule or regulation of said city in the presence of any of said officers and to take such person or persons before a justice of the peace of said city, and may detain him a sufficient time for that purpose, not exceeding twenty-four hours in some proper place for such person in said city, when any person arrested as aforesaid, shall be brought before said justice, he shall immediately proceed in a summary manner to try such person, on complaint preferred by the officer making the arrest.

SEC. 16. The common council at their first meeting in each year, or as soon thereafter as may be, may elect a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office in some convenient place in said city, and the common council shall prescribe his duties, and fix the fees and compensation for any services performed by him. All surveys, profiles, plans or estimates made by him for the city shall be the property of the said city, and shall be

carefully preserved in the office of the recorder, open to the inspection of persons interested.

SEC. 17. The common council, at their first meeting after each annual election, or as soon thereafter as may be, shall advertise for proposals to do the city printing, giving public notice of not less than one week, in such manner as the council may direct, that sealed bids shall be received by the recorder of the common council for doing said printing. The bid or bids received by the recorder to do said printing shall be publicly opened and read by the recorder, at such time and place as the common council shall appoint, and the person or persons offering to do said printing for the lowest sum or price in any newspaper published in said city, and shall give satisfactory security for the performance of the work, shall be declared the city printer for the ensuing year, and in the newspaper designated in said accepted bid or proposal, shall be published all ordinances, by-laws, and other proceedings and matters required by this act or by the by-laws, or ordinances of the common council to be published in a public newspaper. The city printer or printers, immediately after the publication of any notice, ordinance or resolution which is required to be published, shall file with the city recorder a copy of such publication, with his affidavit, or the affidavit of his or their foreman, of the length of time the same has been published; and such affidavit shall be *prima facie* evidence of the publication of such notice, or ordinance or resolution. *Provided*, That if no person will publish, or offer to publish in any newspaper published in said city, such ordinances or other matters as the common council may require to be published, at a rate not exceeding that now prescribed by statute for legal advertisements or notices, the common council may make such other provision for publishing its ordinances, by-laws, and matters requiring publication as it may think fit, anything herein contained to the contrary notwithstanding.

SEC. 18. If any person, having been an officer of said city, shall not, within ten days after notification and request, deliver to his successor in office all property, books, papers and effects of every description in his possession belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city one thousand dollars besides all damages caused by his neglect or his refusal so to deliver, and said successor, may receive possession of such books, papers and effects, in the manner prescribed by the laws of this state.

SEC. 19. The common council shall have power at any time to require other and further duties to be performed by any officer whose duties are herein prescribed, not inconsistent with this act, and to appoint such other officers, as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, unless otherwise provided for, but no officer elected or appointed by the common council, or appointed by the mayor as hereinbefore provided, shall be appointed for a longer term than one year, and until his successor is elected or appointed and duly qualified. The common council shall have the power, unless herein otherwise provided, to fix the compensation of all officers elected or appointed under this act, and such compensation shall be fixed by resolution; and in regard to all

offices created by this charter, the compensation shall be fixed within three months from the first organization and meeting of the common council; and the compensation so fixed shall not be changed, increased or diminished, during the term for which such officer was elected or appointed. No officer elected or appointed to office under the provisions of this charter, shall be a party to or interested in any contract in which the city is interested, made while such officer is holding office; *Provided*, that the mayor and aldermen shall receive no compensation for their services as such officers.

SEC. 20. The mayor or acting mayor, sheriff of the county of Mower, or his deputy or deputies, coroner, and each alderman, the justices of the peace, police officers, constables and watchmen, shall be officers of the peace, and may command the peace, suppress in a summary manner all rioting and disorderly behavior within the limits of the city, and for such purposes may command the assistance of the bystanders, and, if need be, of all the citizens and military companies. And if any person, by-stander, military officer or private shall refuse to aid in maintaining the peace when so required, each person shall forfeit and pay a fine of fifty dollars; and in case where the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present in the order mentioned in this section, shall direct the proceedings.

CHAPTER IV.

THE COMMON COUNCIL—ITS GENERAL POWERS AND DUTIES.

SECTION 1. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be, "The common council of the city of Austin, do ordain." The common council shall meet at such time and place as they shall direct, and four aldermen shall constitute a quorum, but a less number may adjourn from time to time. The common council shall determine the rules of its proceedings, and be the judges of the election and qualification of their own members, and have the power to compel the attendance of absent members. The common council shall hold stated meetings, and the mayor may call special meetings by notice in writing, to each of the members, to be delivered personally or left at their usual places of abode.

SEC. 2. The common council shall have the management and control of the finances and all the property of the city, and shall likewise, in addition to the power herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, by-laws, rules, and regulations for the government and good order of the city, for the suppression of vice and intemperance, and for the prevention of crime, as they shall deem expedient; they shall have power to establish and maintain a city prison. *Provided*, That until otherwise ordered by the common council, the county jail of Mower county shall be used as a city prison, and it shall be the duty of the sheriff or jailer of Mower county, to take into custody and safely keep in said jail all persons

committed thereto until discharged according to law. The common council shall have full power and authority to declare and impose penalties and punishments, and to enforce the same against any person or persons who may violate any of the provisions of any ordinance or by-laws passed or ordained by them, and all such ordinances, rules and by-laws are hereby declared to have all force of law. *Provided*, That they be not repugnant to the constitution and laws of the United States or of the state, and for these purposes shall have authority by ordinance, resolution or by-laws.

First.—To license and regulate the exhibition of common showmen and shows of all kinds, and the exhibition of caravans, circuses, concerts and theatrical performances, and also to license and regulate all auctioneers, billiard tables, pigeon hole tables, nine or ten pin alleys, bowling saloons, butchers' shops and butchers' stalls, and venders of butchers' meat, pawnbrokers, insurance offices and insurance agencies, taverns, lager beer saloons, victualing houses, and all persons vending, dealing in or disposing of spirituous, vinous, malt or fermented liquors. *Provided*, That not less than five dollars, nor more than five hundred dollars shall be required to be paid for any license under this act; and the fee for issuing the same shall not exceed one dollar; and the said city council may at any time revoke any license granted under this act, for mal-conduct in the course of trade, and may regulate and restrain the sale of butchers' meat or fresh meat within the corporate limits of the city, and punish and restrain the forestalling of poultry, game, eggs or fruit within said city.

Second.—To restrain and prohibit all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice or other games of chance, for the purpose of gambling in said city, and to restrain any person from sending, giving or dealing in spirituous, vinous or fermented liquors unless duly licensed by the common council.

Third.—To prevent any riots, disorderly assemblages in said city, and to provide for the arrest of and punishment of any person or persons who shall be guilty of the same, to suppress disorderly houses, and houses of ill-fame, and to provide for the arrest and punishment of the keepers thereof, and to authorize the seizure and destruction of all instruments used for the purpose of gambling.

Fourth.—To compel the owner or owners or occupants of any cellar, tallow-chandler shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome structure or place to cleanse, remove or abate the same from time to time, as often as may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

Fifth.—To regulate or prohibit the slaughtering of animals within the said city or the location or operating of soap or candle factories therein, to direct the location and management of markets, breweries and distilleries, and to establish rates for and license venders of gunpowder, and regulate the storage, keeping and transportation or removal of gunpowder or other combustible materials.

Sixth.—To prevent the encumbering of streets, sidewalks, alleys, lanes, and public grounds with carriages, carts, wagons, sleighs or other vehicles, or with boxes, barrels, lumber, firewood, posts, awnings, signs, goods, machinery, agricultural implements or any other material or substance whatever, to compel all persons to keep the snow, ice,

dirt and other rubbish from the sidewalks and street gutters in front of the premises occupied by them.

Seventh.—To prohibit, prevent and suppress horse racing, immoderate riding or driving in the city, and to authorize persons immoderately riding or driving as aforesaid to be stopped by any person; to prohibit and punish the abuse of animals; to compel persons to fasten their horses or other animals attached to vehicles or otherwise, while standing or remaining in the streets.

Eighth.—To regulate, restrain, or prohibit the running at large of horses, cattle, asses, mules, swine, sheep, poultry and geese, and to authorize the distraining, impounding and sale of the same for the costs of proceedings and the penalty incurred; and to impose penalties on the owners thereof for a violation of any ordinance in relation thereto.

Ninth.—To prevent the running at large of dogs, and may impose a tax on the same, and authorize the destruction of the same in a summary manner, when at large contrary to ordinance.

Tenth.—To prevent any person from bringing, depositing or having within said city any putrid carcass or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance, or any putrid or unsound meat, flesh or fish, or hides or skins of any kind, and to authorize the removal of the same at the expense of the owners.

Eleventh.—To establish and construct public pounds, pumps, wells, cisterns, reservoirs, and hydrants; to erect lamps and provide for the lighting of the city, and to control the erection of gas works or other works for lighting the streets, public grounds and public buildings, and to create, alter and extend lamp districts; to regulate and license hacks, carts, omnibuses, and the charges of hackmen, draymen, cabmen and omnibus drivers in the city.

Twelfth.—To establish and regulate boards of health, provide hospitals and hospital grounds, and the registration of births and deaths, and the return of bills of mortality, and to regulate, or prevent if deemed expedient, the burial of the dead within the city limits, and to purchase and hold grounds for a public cemetery for said city, to improve and ornament the same, and make all regulations necessary for the government thereof.

Thirteenth.—To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Fourteenth.—To prevent all persons riding, leading or driving any horse, mule, ox or other animal, on the sidewalks in said city, or in any way doing any damage to said sidewalks.

Fifteenth.—To prevent the discharging of fire arms or crackers, and to prevent the exhibition of any fireworks, in any situation which may be considered by the common council, dangerous to the city, or any property therein, or annoying to any of the citizens thereof.

Sixteenth.—To prevent open or notorious drunkenness, brawling and obscenity in the streets or public places of the city, and to provide for the arrest and punishment of all persons who shall be guilty of the same.

Seventeenth.—To restrain and regulate parties, runners, agents and solicitors for stages, cars and public houses, or other establishments.

Eighteenth.—To establish public markets and other public buildings,

and make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations.

Nineteenth.—To license and regulate butcher shops, and stands for the sale of game, poultry, butchers' meats, butter, fish and other provisions.

Twentieth.—To regulate the place and manner of weighing and selling hay, and the measuring and selling of firewood, coal, peat and lime, and to appoint suitable persons to superintend and conduct the same.

Twenty-first.—To establish, erect, construct, regulate and keep in repair bridges, culverts and sewers, sidewalks and crossings, and regulate the construction and use of the same, and to abate any encroachment or obstructions thereof; to establish, alter, change and straighten the channels of water courses and drains; to sewer the same, or to wall them up and cover them over; and to prevent, regulate and control the filling up, altering or changing the channels thereof by private parties.

Twenty-second.—To regulate, control and prevent the landing of persons from railroad cars or other conveyances whereon are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of the city.

Twenty-third.—To regulate the time, manner and place of holding public auctions and vendue.

Twenty-fourth.—To provide for watchmen, and to prescribe their number and duties and regulate the same, and to create and establish the police of said city, and to prescribe the number of police officers and their duties, and to regulate the same.

Twenty-fifth.—To provide by ordinance for a standard of weights and measures; for the appointment of a city sealer, and require all weights and measures to be sealed by the city sealer; and to provide for the punishment of the use of false weights and measures.

Twenty-sixth.—To regulate the inspection of flour, pork, beef, fish, salt, whisky, and other liquors and provisions. And to appoint inspectors, measurers, weighers and gaugers; to regulate their duties, and prescribe their compensation.

Twenty-seventh.—To direct and regulate the planting and preservation of ornamental trees in the streets, alleys, highways and public grounds of the city.

Twenty-eighth.—To remove and abate any nuisance injurious to the public health. And to provide for the punishment of all persons who shall cause or maintain such nuisances.

Twenty-ninth.—To remove and abate any nuisance, obstruction or encroachment upon the streets, alleys, public grounds, and highways of the city.

Thirtieth.—To do all acts and make all regulations which may be necessary and expedient for the preservation of health, or the suppression of disease, and to make regulations to prevent the introduction of contagious diseases into the city.

Thirty-first.—To restrain and punish vagrants, mendicants, street beggars, and provide for the punishment of the same.

Thirty-second.—Fines, penalties and punishments, imposed by the

common council for the breach of any ordinances, by-laws, or regulation of said city, may extend to fine not exceeding one hundred dollars, and imprisonment in the city prison or county jail not exceeding thirty days, or both, and to be fed on bread and water, at the discretion of the city justice; and offenders against the same may be required to give security for their good behavior, and to keep the peace for a period not exceeding six months, and in a sum not exceeding five hundred dollars.

Thirty-third.—To prohibit and restrain the rolling of hoops, flying kites, or any other amusements or practices tending to annoy persons passing on the streets or sidewalks, or to frighten horses or teams; to restrain and prohibit the ringing of bells, blowing of horns or bugles, crying of goods and all other noises, performances and practices tending to the collecting of persons on the streets or sidewalks by auctioneers or others, for the purpose of business, amusement or otherwise.

Thirty-fourth.—To fill up, drain, cleanse, alter, repair and regulate any grounds, lots, yards, cellars, private drains, sinks and privies, direct and regulate their construction, and cause the expenses thereof to be assessed and collected in the same manner as sidewalk assessments.

Thirty-fifth.—To direct and control the laying out, construction of railroad tracks, bridges, turnouts and switches, in the streets and alleys, and the location of depot grounds within the city; to require that railroad tracks, bridges, turnouts and switches, shall be so constructed and laid out as to interfere as little as possible with the ordinary travel and use of the streets and alleys; and that sufficient space shall be left on either side of said track for the safe and convenient passage of teams and persons; to require railroad companies to keep in repair the streets through which their track may run, and to construct and keep in repair suitable crossings at the intersections of streets and alleys, and sewers, ditches and culverts when the city council shall deem necessary; to regulate the speed of locomotive engines within the city, and also to compel railroad companies to station flagmen at the principal crossings in said city.

SEC. 3. All ordinances, regulations, resolutions and by-laws shall be passed by an affirmative vote of not less than four of the members of the common council present, by ayes and noes, and published in the official paper, before the same shall be in force, and shall be admitted as evidence in any court of the state, without further proof; they shall be recorded by the city recorder in books provided for that purpose. No appropriation shall be made without a vote of a majority of the members of the council present in its favor, which vote shall be taken by ayes and noes, and entered among the proceedings of the council.

SEC. 4. The powers conferred upon the common council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions, or proceedings in the courts according to law.

SEC. 5. The common council shall examine, audit and adjust the accounts of the recorder, treasurer, street commissioners, justices of the peace, and all other officers and agents of the city, at such times as they may deem proper, and also at the end of each year, and before the terms for which the officers of said city were elected or appointed shall have expired. And the common council shall require each and every such officer and agent to exhibit his books, accounts and vouchers

for such examination and settlement, and if any such officer or agent shall refuse to comply with the orders of said council, in the discharge of their said duties, in pursuance of this section, or shall neglect or refuse to render his accounts or present his books and vouchers to the council or a committee thereof, it shall be the duty of the common council to declare the office of such person vacant. And the common council shall institute suits and proceedings at law against any officer or agent of said city who may be found delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlement and adjustment.

CHAPTER V.

FINANCES AND TAXATION.

SECTION 1. The common council shall have power to levy upon all property real and personal within the city of Austin except such as may be exempt by the laws of this state, taxes for the support of the city government and payment of its debts and liabilities, and the same shall be assessed in the manner provided for by the general laws of this state. The said common council may levy an annual tax upon all property in said city, taxable under the laws of this state, to and for the specific purposes following, provided that nothing herein contained shall prevent the assessment, levy and collection of special taxes as provided by chapter six of this act upon any and all real estate within said city, notwithstanding the same may have been heretofore exempted from taxation under the laws of this state. First to provide a general fund for the purchase of ground and erecting and repairing buildings for city purposes and to pay the general current and incidental expenses of the city, including salaries of officers, police, street force, fire department, lighting the city, printing, stationery and the expenses of streets, alleys, &c. as provided in section three, chapter six of this act and to provide for the preservation of the health of the city; but the amount of money raised for the above purposes shall not exceed three mills on the dollar of the assessed value of the taxable property of the city.

SEC. 2. Taxes may be levied by resolution of the common council, and no tax shall be invalid by reason of any informality in the manner of levying the same.

SEC. 3. The common council shall cause to be transmitted to the county auditor of Mower county on or before the first day of September of each year, a statement of all taxes by them levied, and such taxes shall be collected and the payment thereof enforced with and in like manner as state and county taxes are paid and enforced, and the county treasurer of said Mower county shall pay such taxes over, as fast as collected, to the treasurer of said city.

SEC. 4. No moneys shall be paid out of the city treasury unless such payment be authorized by a vote of the common council, and these shall be drawn out only upon orders by the mayor and countersigned by the recorder, which orders shall specify the purpose for which they were drawn and the name of the person in whose favor the

same are drawn, and may be made payable to the order of such person or to the bearer as the common council may determine.

SEC. 5. When any such order shall have been paid or received by the treasurer, it shall not again be issued, but he shall immediately cancel the same and file the same away in his office.

SEC. 6. The city of Austin shall constitute one road district. The common council shall issue a warrant to the street commissioner who is hereby declared possessed of all the general powers of the state belonging to road overseers, containing the whole amount of highway labor and taxes assessed and levied within the corporation, which said warrant shall be returned and filed by him with the recorder within the [time] prescribed by the laws of this state, together with a correct and detailed report of all moneys and labor collected on said warrant and the manner, in which the same have been expended. The laws of the state shall apply to warning, working, suing for and collecting highway taxes and returning delinquent taxes and in all other respects except as herein expressly provided. The common council shall have full power to direct the street commissioner, when, where and how to expend said labor and tax, and to remove him. The common council shall perform the duties imposed by law upon the supervisors of towns, in levying highway taxes, and shall be governed and restricted in the amount so levied, by the same laws applicable to the supervisors of towns in this state in levying highway labor and taxes. Any resident of this city feeling himself aggrieved by the official conduct of the street commissioner may make complaint in writing to the mayor whose [duty] it shall be to immediately investigate the cause of such complaint, and if the allegations contained therein are found to be true, he shall by order in writing direct the street commissioner to discontinue and remove the subject of such grievance.

CHAPTER VI.

SECTION 1. The common council shall not construct sidewalks except by a petition in writing signed by two-thirds of the owners and occupants that are living opposite such improvements. The common council may order by resolution or ordinance without petition of the property owners and occupants the repair of any sidewalk. All owners of real estate in front of, adjacent to or upon which the common council shall order or direct any sidewalk to be constructed or repaired, shall construct or repair such sidewalk at their own cost and charge, in the manner and within the time prescribed by said common council in a notice published as hereinafter provided. Whenever said common council shall order any such work to be done, and shall by ordinance or resolution prescribe the manner of constructing such work or shall have before done so, they shall cause a notice to be published once in the official paper of said city, ten days prior to the time when the same shall be completed, stating the character of the work and the manner in which it is to be done, and the time within which the same shall be completed, which statement may be made by reference to any ordinance or resolution of said common council then or theretofore duly published. Such notice shall state upon what lot or tract of land, or in front of or adjacent to what lot or tract the said

work is to be done, and the name of the owner or occupant of such land need not be given or stated herein. If the work be not done in the manner and within the time so prescribed by the common council, the council may proceed to do the same by contract, or by the street commissioner where the cost of work will not exceed twenty-five dollars. When the work aforesaid is done by contract the common council shall cause advertisements for proposals for doing such work to be published two weeks in the official paper of the city, the terms upon which said work is to be done, the manner of doing the same: or any necessary particulars may be stated in such advertisement or by reference to any ordinance or resolution or notice of the common council then or theretofore published, designating the same by its title or date or the date of publication or the approval thereof by the mayor or acting mayor of said city. The same proceedings shall be had in relation to the awarding or letting contracts for the work mentioned in this section as are

SEC. 2. It shall be the duty of the common council upon receiving any such report to adopt or remand the same with instructions. Whenever such report is adopted, the common council shall on or before the time by law required for reporting to the county auditor of Mower county the amount of tax levied on said city for that year, to certify to said auditor the amount of such assessment with the amount assessed on each lot; and thereupon it shall be the duty of said auditor to insert the amount of said assessment in the next annual tax roll, and the same shall be collected in the same manner as other taxes upon real property.

SEC. 3. The costs and expenses of surveying streets, alleys, sidewalks, sewers, public grounds, reservoirs, cisterns and drains, and the erection of buildings for city purposes, and of cleansing and repairing the same, and constructing and repairing reservoirs and sewers street crossings and crosswalks, may be paid out of the general fund; or reservoirs may be built by districts designated by the common council, but the expense of opening, grading, graveling, paving, planking or macadamizing streets and alleys to the centre thereof, shall be chargeable to and payable by the lots fronting on such street or alley within the line of improvement as far as the work extends; except the approaches to the bridges in said city, and the whole expense thereof shall be assessed upon such lots in proportion to their fronts thereon.

SEC. 4. No grading, graveling, planking, macadamizing or paving streets and alleys to be done at the expense of the lots fronting such improvement the expense of which is chargeable to such lots, shall be ordered by the common council except upon petition in writing of two-thirds of the resident owners of the property on the line of the proposed improvement and chargeable therewith. Sewers may be built, on petition of two-thirds of the resident property owners along the line of the proposed sewer, and the expenses apportioned by the common council among the lots and parcels of land benefited thereby, all resolutions or orders directing such improvements shall be filed and recorded by the recorder.

SEC. 5. The common council may cause to be established from [time] to time and as rapidly as the convenience of the inhabitants may require, under the direction of the city surveyor, the grade of all streets,

sidewalks and alleys in said city, and it shall cause accurate profiles thereof to be made and kept in the office of the city recorder.

CHAPTER VII.

STREETS, BRIDGES AND PUBLIC GROUNDS.

SECTION 1. The common council of said city shall have the care, supervision and control of all the highways, bridges, streets, alleys, public squares and grounds within the limits of the city, and shall have the power to build and keep in repair bridges and the approaches to the same, lay out, open, alter, vacate public squares, highways, streets, lanes, and alleys, and widen or straighten the same. *Provided*, That no right, title or interest in or to any street, park, public ground or square in said city shall be granted, conveyed, released, or discharged by the common council of said city except upon petition of two-thirds of the owners of property on the line of such public ground, street, alleys or highways, residents within said city, such petition shall set forth the facts and reasons for such vacation, conveyance or release accompanied by a plat of such public grounds, streets, alleys or highways, and shall be verified by oath of [at] least two of the petitioners.

SEC. 2. The damages sustained by reason of laying out, opening or altering any road, street or alley may be agreed on in the same manner as in a town under the laws of the state, and the state laws shall apply in all respects, in relation to the release of damages, the filing thereof, or the assessing thereof by the common council, and appealing therefrom to the county commissioners except the recorder is substituted for the town clerk and the common council for supervisors: All such damages and repairs shall be levied as a tax upon the city at large.

CHAPTER VIII.

FIRE DEPARTMENT.

SECTION 1. The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings or other buildings, the material or construction of which shall be regarded as dangerous to surrounding property, shall not hereafter be erected, placed or repaired, and to direct that all and any building, within the limits prescribed, shall hereafter be built and constructed in such manner and of such materials, as in the judgment of the council, shall not be dangerous to surrounding property, and to prohibit the repairing or re-building of wooden buildings within the fire limits, when the same shall have been damaged by fire or otherwise, to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damages. The common council shall have power, by resolution, to order any building, structure, or materials therefor, hereafter erected, or in process of erection, of which the construction or materials may be dangerous to surrounding property, to be taken down or removed beyond the fire limits of the city, and shall have power to prescribe the notice to be given to the owner or agent to remove such building, and in case the same

is not removed in pursuance of the notice given, to order the same taken down, removed by the police, or in such manner as the common council may see fit. And the common council may prescribe penalties for the violation of any of the provisions of this section, or of any ordinance made or enacted to carry out the provisions thereof, not exceeding one hundred dollars, which may be imposed by a city justice, upon the complaint of any citizen.

SEC. 2. The common council shall have power to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove-pipes, ovens, boilers, and apparatus used in and about any building, and to cause the same to be removed, or placed in a safe or secure condition, when considered dangerous. To prevent the deposit of ashes in unsafe places, and the throwing of ashes into the streets and alleys. To require the inhabitants to provide as many fire buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire. To regulate and prevent the carrying on of manufactures dangerous in causing or promoting fire. To regulate and prevent the use of fire-arms and fire-works. To compel owners or occupants of buildings to have scuttles in the roofs, and stairs or ladders to the same. To authorize the mayor, aldermen, fire wardens, and other officers of the city to keep away from the vicinity of any fire, all idle and suspected persons, and to compel all bystanders to aid in the extinguishment of fires and the preservation of property exposed to damages thereat, and generally to establish such regulations for the prevention and extinguishment of fires as the common council may deem expedient.

SEC. 3. The common council shall have power to purchase fire engines, and all other apparatus which may be required for the extinguishment of fires, and authorize the formation of fire engine, hook and ladder and hose companies, and to provide for the proper support and regulation of the same, and to order such companies to be disbanded, their public meetings prohibited, and their apparatus to be given up. Every member of each company which may be authorized to be formed, shall be exempt from highway work and poll tax, from serving on juries, and from military duty during the continuances of such membership.

SEC. 4. The common council shall have power to appoint the foreman of the fire department, and also one fire warden in each ward, and to prescribe the duties of such officers.

SEC. 5. Whenever any person shall refuse to obey any lawful order of the foreman of any fire company, fire warden, mayor or alderman, at any fire, it shall be lawful for the officer giving such order to arrest, or to direct orally any constable, police officer, watchman or any citizen, to arrest such person, and to confine him temporarily in any safe place, until such fire shall be extinguished; and in the same manner such officers, or any of them, may arrest, or direct the arrest and confinement of any person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to obey any such lawful order, or who shall refuse to arrest or aid in arresting any person so refusing to obey, shall be liable to such penalty as the common council may prescribe, not exceeding a fine of fifty dollars, or thirty days imprisonment.

CHAPTER IX.

LIGHTING OF STREETS—SUPPLY OF WATER.

SECTION 1. The common council shall have authority to contract with any persons or corporations for the lighting of such streets or parts of streets, and public places, as they shall deem proper for the convenience and safety of the inhabitants.

SEC. 2. The common council may permit the laying of gas pipes in any and all the streets, alleys, highways and public grounds of the city; but in all cases the common council shall regulate the laying of the same, so that said gas pipes may not at any time interfere with the construction of common sewers or the lateral branches thereof, or with the proper and convenient location of water mains and pipes, and may at any time require the location of any gas pipe to be changed, if the same shall be found to interfere with the proper and convenient location of common sewers or water mains and pipes.

SEC. 3. The common council may permit any party or corporation to lay water mains and pipes in any and all streets, alleys, highways and public grounds, of the city, and shall regulate the position of the same, so that they shall not obstruct or interfere with common sewers or with the proper drainage of the city.

CHAPTER X.

MISCELLANEOUS PROVISIONS.

SECTION 1. No vote of the common council shall be re-considered or rescinded at a subsequent meeting, unless at such subsequent meeting there be present as large a number of aldermen as were present when the vote was taken.

SEC. 2. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by the vote of two-thirds of the aldermen elect.

SEC. 3. In all prosecutions for any violation of this act, the first process shall be by warrant on complaint being made. *Provided*, That no warrant shall be necessary in any case of the arrest of any person or persons while in the act of violating any law of the state of Minnesota, or ordinance or by-law of the city of Austin, but the person or persons so arrested may be proceeded against, tried, convicted and punished or discharged in the same manner as if the arrest had been made by warrant. All warrants, process or writs by the justices of peace for the violation of any ordinance and by-laws of said city shall be directed to the chief of police or any police officer or constable and sheriff of said city. All actions or proceedings for any violation of the provisions of this act or of the ordinances, by-laws, or police or health regulations made in pursuance thereof, or to recover any penalty or forfeiture thereunder, shall be brought in the corporate name of the city. *Provided*, That the style of all process shall be "The State of Minnesota." In cases of prosecution for a breach or violation of an ordinance, by-law or regulation of said city or its

charter, or for an assault, battery, or breach of the peace or affray not indictable, committed within the city limits no appeal shall be allowed where the judgment or fine imposed exclusive of costs is less than fifteen (15) dollars.

SEC. 4. In all cases of the imposition of any fine or penalty, or of the rendering of any judgment by a justice of peace of said city, pursuant to any statute of the state of Minnesota, or pursuant to any ordinance or by-law of the said city of Austin, as punishment for any offense, or for the violation of any ordinance or by-law as aforesaid, the offender shall be forthwith committed to the city prison of said city, or if there be no city prison, to the common jail of Mower county, and be there imprisoned for a term not exceeding three months, in the discretion of the justice of the peace, unless the said fine or penalty be sooner paid; and from the time of the arrest of any person or persons for any offense whatever, until the time of trial, the person or persons so arrested may be imprisoned in the city prison, or in case there be no city prison, in the common jail of the county of Mower.

SEC. 5. When any suit or action shall be commenced against said city, service of the process may be made by the proper officer, by leaving a copy of such process with the mayor or acting mayor; and it shall be the duty of the mayor forthwith to inform the common council thereof, and take such other proceedings as by the ordinances or resolutions said council may have in such case provided.

SEC. 6. The said city may procure and hold real and personal estate for public purposes, sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

SEC. 7. No law of the state concerning the provisions of this act shall be considered as repealing, amendatory or modifying the same, unless said purpose be expressly set forth in such law.

SEC. 8. The city of Austin shall be liable for the costs made in the trial of any person who may be committed by any justice of the peace of said city, to the jail of Mower county, for any offense committed within the corporate limits of said city, punishable under the state law, or any ordinance or by-law of said city, and the common council are authorized to make such regulations with the commissioners of said county as shall be necessary to carry the above into effect.

SEC. 9. All work for the city (except the highway taxes,) shall be let by contract to the lowest bidder therefor, and the common council may require a bond with sureties for the faithful performance of the contract, not less than ten days notice shall be given of the letting of the contract by publishing notices in one or more newspapers in the city, to be signed by the recorder, and also filing a copy of said notices with the recorder at the same time. *Provided*, that in case the work shall not exceed twenty-five dollars, the common council may order the street commissioner to do said work.

SEC. 10. No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

SEC. 11. All ordinances and regulations heretofore made by the common council of the city of Austin, not inconsistent with the provisions of this act, shall be and remain in force until altered, modified

or repealed by the common council of said city, after this act shall have gone into effect.

SEC. 12. When the common council shall have organized, the functions of the common council of the old city of Austin shall cease to have or exercise any further powers. The act to incorporate the village of Austin, approved March sixth (6), one thousand eight hundred and sixty-eight (1868), and all acts amendatory thereof are repealed, from and after the election of the aldermen whose election is herein provided for.

SEC. 13. All fines, penalties, judgments and moneys, (except officers' fees,) that may be imposed, levied or collected by the justices of the peace, or that may be collected by any other officers of said city, for any violation of any by-law or ordinance of said city, or of any of the laws of the state of Minnesota, shall be vested in and be the sole and exclusive property of said city.

SEC. 14. No sale under execution or other proceedings upon a judgment, decree, foreclosure, or lien, and no transfer or mortgage, shall divest or affect the lien of any assessment for any tax, or for any improvements chargeable to or assessed against the property under this act, although the confirmation of such assessment may be subsequent to the lien of such judgment, decree, or other lien as to such transfer or mortgage.

SEC. 15. The first election under this act shall be held on the second Tuesday in March A. D. one thousand eight hundred and seventy six (1876); at least ten (10) days prior to the second Tuesday in March one thousand eight hundred and seventy six the aldermen of the city of Austin shall designate a place in each ward for the holding of an election, and the said aldermen shall act as judges of said election, and in case of inability or non attendance of any of said aldermen the vacancy shall be filled by a *viva voce* vote of the electors present the recorder of the city of Austin shall ten (10) days before the time herein appointed for the election of city officers, issue and caused to be posted up in not less than three (3) public places in each ward of the city of Austin as created by this act, notices of the first city election to be held under this act on the second Tuesday in March A. D. one thousand eight hundred and seventy six (1876), which notice shall designate the time and place in each ward of holding such election and the officers to be voted thereat.

In all other respects said first city election shall be governed by the rules prescribed in this charter.

SEC. 16. Notwithstanding the supercedure or repeal by this act of the act incorporating the village of Austin, and acts amendatory thereof, it is not intended that any rights vested shall be lost thereby; but in all cases affecting past taxes not yet collected, liens for the same, rules of evidence and rights of every kind inchoate or perfected, the provisions of such acts as are hereby suspended or repealed, and of all ordinances passed by the council of said city shall be deemed to continue in force.

SEC. 17. This act is a public act and need not be pleaded or proven in any court in this state.

SEC. 18. This act shall take effect from and after its passage.

Approved February 28, 1876.