

## CHAPTER 10.

[H. F. No. 818.]

## AN ACT TO REDUCE, CONSOLIDATE AND AMEND THE CHARTER OF THE CITY OF ALBERT LEA, MINNESOTA.

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

SECTION 1. The act entitled "An act to incorporate the city of Albert Lea, Freeborn County, Minnesota," approved March eleventh (11th,) one thousand eight hundred and seventy eight (1878,) and all acts of the legislature amending the same subsequently passed are hereby amended, consolidated and reduced to one act, so that the same shall constitute the charter of the City of Albert Lea, which shall read as follows:

## CHAPTER I.

## CITY AND WARD BOUNDARIES.

SECTION 1. *Creation of Corporation.*—That all that district of country contained within the limits and boundaries hereinafter described shall be a city by the name of "The City of Albert Lea," and the people who now do and hereafter may reside therein shall be a municipal corporation by the name of The City of Albert Lea, and by that name shall sue and be sued, and be impleaded in any court, make and use a common seal and alter it at pleasure, and take, hold, purchase, lease, sell and convey such real, personal and mixed estate, as the purposes of the corporation may require, or the transaction or exigencies of the business may render convenient, within or without the city, and the same shall be free from taxation; shall be capable of contracting and being contracted with and have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specifically granted, and that the authorities thereof shall have perpetual succession.

SEC. 2. *City Boundaries.* The boundaries of said city shall comprise all that territory within the county of Freeborn and state of Minnesota, described as follows, viz: The north west quarter ( $\frac{1}{4}$ ), and the east half ( $\frac{1}{2}$ ) of the south west quarter ( $\frac{1}{4}$ ), and the east half ( $\frac{1}{2}$ ) of section eight (8); also the southwest quarter ( $\frac{1}{4}$ ), and the south half ( $\frac{1}{2}$ ) of the northwest quarter ( $\frac{1}{4}$ ) of section nine (9); also the north half ( $\frac{1}{2}$ ) of section sixteen (16); and also the northeast quarter ( $\frac{1}{4}$ ) and the east half ( $\frac{1}{2}$ ) of the northwest quarter ( $\frac{1}{4}$ ) of section seventeen (17), all in township number one hundred and two (102), north of range number twenty-one (21) west of the fifth (5th) principal meridian.

SEC. 3. *Ward Boundaries.* The said city is hereby divided into three (3) wards as follows, to-wit:

*First ward.* The first ward shall comprise all that part of said city lying north of Clark street and the extension thereof west, and north of a line extending west from the west terminus thereof and all territory north of a line extending due east from the east terminus of said Clark street, (which said Clark street is one of the streets of the old townsite of Albert Lea, as are all other streets hereafter referred to.)

*Second ward.* The second ward shall comprise all territory south of Clark street and west of Broadway.

*Third ward.* The third ward shall comprise all territory south of the first ward and east of Broadway.

SEC. 4. *Change of Wards.* The city council of said city shall have the power by ordinance to change the boundaries of said wards or increase the number thereof, to not exceeding five (5), as the convenience of the inhabitants may require, such wards containing as nearly as practicable an equal number of voters.

## CHAPTER II.

### ELECTIONS AND OFFICERS.

SECTION 1. *Annual City Elections.* There shall be held an annual election for elective officers hereinafter provided, on the first (1st) Tuesday of April of each and every year, at such place in each ward as the city council shall designate, and shall be conducted in all respects in accordance with the general election laws of this state, except as hereinafter qualified. Ten (10) days previous notice shall be given by the city council of the time and place of holding such election and the officers to be elected, by the posting by the city clerk of the notices thereof at each place of election in the city and by publishing the same in the official paper of the city. The city council shall in due time before any election, appoint such number of judges of election as may be necessary to constitute a full board for each election district, as provided by general law.

SEC. 2. *Special Elections.* Special elections for any purpose shall be held and conducted in all respects as general or annual elections under this charter, and upon a notice of not less than ten (10) days, which notice shall distinctly specify the object of said election.

SEC. 3. *Elective Officers and Term of Office.* The elective officers of said city shall be a mayor, treasurer, alderman at large, and two justices of the peace for the city, who shall be styled city justices. All of said officers shall be residents in and qualified voters of said city. Each ward shall elect two aldermen, who shall be owners of real estate and residents within and qualified voters of the ward for which they may be elected; there shall also be elected in and for said city, one alderman at large who shall be the owner of real estate and elected by the voters at large at said election, and hold his office for one (1) year. All other officers necessary for the due and proper management of the affairs of the city shall be elected or appointed by the common council, unless otherwise provided.

At every annual election there shall be elected for each ward one (1)

alderman who shall hold his office for two (2) years, and all other elective officers shall hold their respective offices for one (1) year. All officers elected or appointed as provided in this act shall hold their offices for the respective term provided herein for them and until their successors are elected and qualified.

SEC. 4. *Commencement of Term of Elective Officers.* The official term of all officers elected under the provisions of this act shall commence on the second (2nd) Tuesday of April next succeeding their election.

SEC. 5. *Vacancy; how Filled.* Whenever any vacancy shall occur in the office of any elective officer of said city, excepting that of Mayor, which is hereinafter provided for, such vacancy shall be filled by appointment by the city council until the next annual election, and the successor of such person so appointed to fill any vacancy as aforesaid, shall be elected at such election for the unexpired term.

SEC. 6. *Vacancy how Created.* Any officer removing from the city or ward for which he was elected or appointed, or who shall neglect or refuse for ten (10) days after notice of his election or appointment, to qualify or enter upon the discharge of the duties of his office, shall be deemed to have vacated the same, and the city council shall declare the office vacant and proceed to fill such vacancy as herein prescribed.

SEC. 7. *President of Council, how Elected.* At the first meeting of the city council after the annual election in each year, they shall proceed to elect by ballot from their own number a president of the council, who shall hold that office for one (1) year or while he is a member of such body during that period, and vacancies in the office of president of the council shall be filled by the city council for the unexpired term. The president of the council shall during the absence of the mayor from the city or his inability from any cause to discharge the duties of the office, exercise all the powers and discharge all the duties of the mayor, and when so acting shall be styled acting mayor, and acts performed by him as aforesaid, shall have the same force and effect as if performed by the mayor.

SEC. 8. In case of a vacancy in the office of mayor by death, resignation or otherwise, the president of the council succeeds to the office of and becomes mayor of the city until the next annual election and the vacancy caused thereby in the city council shall be filled by that body as herein provided. In the absence from the city of both the mayor and president of the council or their inability to discharge the duties of their respective offices, and it should be necessary or proper that either of said officers should discharge a public or official duty in said city, the city council shall meet forthwith and appoint of their own number a president pro tem, who shall become acting mayor and exercise all the powers and duties of said office for the time being.

SEC. 9. *Qualifications of Voters.* All persons entitled to vote for state and county officers and who shall have resided in the state for four (4) months immediately preceding the election and ten (10) days in the ward in which they offer to vote, and shall be a bona fide resident in said city at the time of the election, shall be entitled to vote

for any officer at any annual election held under this act, and a plurality of votes shall constitute an election.

SEC. 10. *Qualification of Voters in Money Matters.* Whenever a proposition is voted upon that money shall be borrowed or bonds shall be issued for and on behalf of said city, then and in that case only the qualified voters who have paid taxes to the county treasurer of said county for the year immediately preceding the election, or are assessed to a taxable amount at the time of the election for property in Albert Lea shall be allowed to vote, and the judges of election are authorized to require the production of the proper tax receipt or evidence of assessment for their inspection, or other satisfactory proof thereof, and any person refusing or neglecting to comply therewith shall not be allowed to vote. If said proposition is voted upon at the same time when officers or other propositions are voted upon, then and in that case a separate ballot shall be used for the above purpose and deposited in a separate ballot-box provided therefor and all votes not cast in compliance with the above shall not be counted.

SEC. 11. *Tie in Elections.* Whenever two or more candidates for the same office shall receive an equal number of votes for the same office the election shall be determined by the city council, at such time and in such manner as they may direct, of which time and place said candidates shall have notice.

SEC. 12. *Election Districts; Judges of Election; Duties.* Each ward shall constitute an election district for state, county as well as city elections. The elections in said city shall be held and conducted by the councilors of each ward and one or more electors of said ward to be appointed by the city council, who shall be the judges of election, and they shall have the power to appoint the clerks of such election. In all other respects the elections are conducted in the same manner and under the same penalties, judges and clerks of election having the same duties and powers, receive the same compensation, and vacancies in the board are filled, all as required by the laws of this state regarding elections, except that the returns of all elections for city officers shall be made to the city clerk as herein provided. *Provided*, that no candidate for office at any such election shall act as judge or clerk of election.

SEC. 13. *Election Returns.* Whenever any city election shall be closed and the votes cast thereat counted and the result ascertained, the said election board shall make return thereof with an abstract of the whole number of votes cast at such election, stating the whole number of votes for each person for each office, or upon any or all propositions, affirmative or negative, of any proposition submitted to the people at such election, and shall within two (2) days deliver or cause to be delivered by one of their number into the hands of the city clerk such abstract and return, and the city council shall meet and canvass said returns and declare the result as it appears from the same within three (3) days thereafter. The city clerk shall then forthwith notify the officer or officers elected of their election by written notice served upon such officers in person or left at their last usual place of abode with some person of suitable age and discretion. Certificates of election shall be issued to all elective officers of said city

under the direction of and in the manner and form as the city council may prescribe.

SEC. 14. *New Elections; Notice.* Should there be a failure by the people for any cause to hold any city election at the time or in the manner herein prescribed, or to elect any officer herein required to be elected on the day designated, the city council may order a new election to be held, ten (10) days' notice of time and place being given. *Provided*, that no failure of the city clerk to give the notice of election specified in section one (1) of this chapter shall in any manner invalidate any general election.

SEC. 15. *City Council Elects certain Officers.* The city council shall, except as herein otherwise provided, at the first meeting of the city council after the annual election, or an adjournment thereof, nominate and appoint a city clerk, city attorney, city surveyor, assessor, street commissioner, and also at the same time or as soon thereafter as may be, all such officers necessary for the proper management of the affairs of the city, or offices created by virtue of this act.

SEC. 16. The official term of all officers of the city appointed by virtue hereof, shall commence on the third (3d) Tuesday of April next succeeding their appointment, and shall hold their respective office for one (1) year and until their successors are appointed and qualified, except as herein or otherwise differently provided. Warrants of appointment shall be issued to all appointed officers of said city in such form and manner as may be prescribed by the city council.

### CHAPTER III.

#### POWERS AND DUTIES OF OFFICERS.

SEC. 1. *Removal from Office.* Every person appointed to any office by the city council or mayor of said city or elected to any city office by the people may be removed from said office by a vote of two-thirds ( $\frac{2}{3}$ ) of all the city councilors. But no officer elected by the people shall be removed except for cause, 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 city council shall fix a time for the trial of such officer, of which not less than ten (10) 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 neglects to appear and answer the charges against him, the city council may declare the office vacant.

SEC. 2. *Oaths and Bonds of Office.* Every person elected or appointed to any office under this act, shall, before he enters upon the duties of such office, take and subscribe an oath of office, and file the same, duly certified by the officer administering the same, with the city clerk of said city; and the treasurer and such other officers as the city council may direct, shall before entering upon the duties of their respective offices, be required to execute such bond to the city of Albert Lea as the council thereof may direct and approve, for the

faithful performance of the duties of such office, and such bond may be increased or diminished at the pleasure of the council, and any officer failing to give the required bond at any time may be removed from said office by the council.

SEC. 3. *Powers and Duties of Mayor.* The mayor shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all the executive officers of the city discharge their respective duties properly. He shall from time to time give the council such information and recommend such measures as he may deem advantageous to the city. He is invested with the veto power. The mayor shall be the chief executive officer and head of the police of the city, and shall, by virtue of his said office, and by and with the consent of the council, appoint such police officers and watchmen as may be necessary, except when otherwise provided for. He is clothed with the power to call upon any male inhabitant over the age of eighteen years, and organized or unorganized forces of armed citizens of said city, to aid in the enforcement of laws and suppression of disturbances; and any person so directed who shall not obey such call or render such aid, shall, upon conviction (before the city justice or other magistrate having jurisdiction), thereof be fined not less than five (5) nor more than one hundred (100) dollars. In case of riot, large public gathering, or other disturbance, he may provide and appoint as many special or temporary policemen or watchmen as he may deem necessary, and any policeman thus appointed by the mayor, as aforesaid, may be discharged by him whensoever he sees fit; but such special or temporary appointments shall not continue for more than one week without the consent of the city council.

SEC. 4. *Ordinances, Approval by Mayor.* All ordinances and resolutions shall, before they take effect, be presented to the mayor, and if he approve thereof he shall sign the same, and such as he shall not sign he shall return to the city council with his objections thereto, by depositing with the city clerk to be presented to the council at their next meeting thereafter; and upon the return of any resolution or ordinance by the mayor, the vote by which the same was passed shall be reconsidered, and if after such reconsideration the city council shall pass the same by a vote of two-thirds ( $\frac{2}{3}$ ) of all the councilors, it shall have the same effect as if approved by the mayor, and in such case the vote shall be by ayes and noes, which shall be entered by the city clerk. If an ordinance or resolution shall not be returned by the mayor within five days (Sundays excepted) after it shall have been presented to him, the same shall have the same effect as if approved by him. All contracts, appropriations and orders drawn on the treasurer shall be signed by the mayor.

SEC. 5. *Further Powers of Mayor.* The mayor may also at the request of any person, firm, society or organization, appoint policemen or watchmen, who shall serve without expense to the city, and have police powers to preserve the peace and protect the property within such limits and at such places as may be designated in such appointment; but such limited policemen or watchmen shall not exercise any authority nor wear any badge of office outside the limits named in such appointment. The mayor shall, whenever he deems it

necessary, with the consent and approval of the city council, from time to time make such regulations for the control of the police force and the powers and duties of the several officers thereof, as may be deemed necessary or expedient.

SEC. 6. *Powers and Duties of Acting Mayor.* The acting mayor has all the powers and duties of the office of mayor when he for any reason properly assumes to act as such, and all acts performed by him when so acting, shall have the same force and validity as if performed by the mayor.

SEC. 7. *President of the Council, Powers and Duties.* The president of the council shall preside over the meetings of the city council and perform such other duties as are herein prescribed or conferred upon him as such presiding officer; and shall have the same right to vote upon all matters as any other councilman. In the absence of the president of the council from any council meeting, a president pro tem may be elected, who shall for such meeting have the same power as the president.

SEC. 8. *City Clerk, Powers and Duties.* There shall be a clerk of said city, styled city clerk, who shall keep his office at the place of meeting of the city council, or such other convenient place as the council may direct. He shall keep the corporate seal and all the papers and records of the city, or papers by law required to be filed in his office, and keep a record of the proceedings of the city council at whose meetings it shall be his duty to attend, and shall keep a record of the ayes and nays when demanded by any member of the council. Copies of all papers filed in his office, 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 city council and keep a full and accurate account thereof in books provided for that purpose. The city clerk shall have power to administer oaths, affirmations and take acknowledgements. It shall be the duty of the city clerk to report to the council the financial condition of the city whenever the city council may require. He shall make and keep a list of outstanding city bonds, to whom issued, for what purpose, when and where payable and the rate of interest they respectively bear. He shall report to the council annually at the close of each fiscal year a detailed statement of the receipts and expenditures for the year and an estimate of the expenses of the city and likewise the revenue necessary to be raised for the current year; the fiscal year shall commence at such time as may be determined by the city council. Every contract made in behalf of the city or to which the city is a party, shall be void unless attested by the signature of the city clerk and the seal of said city attached thereto. He shall keep regular books of accounts in which he shall enter all the indebtedness of the city and which shall at all times show the precise financial condition of the city; he shall countersign all bonds, orders or other evidences of indebtedness of the city. All claims and demands against the city before they are allowed by the city council, shall be filed in his office verified by the oath of the claimant. He shall perform all other services by law required of clerks of cities or townships within said city, but when services are required of him by public law, for which com-

compensation is made from state or county treasury, such services shall not be regarded as services for the city, and he may retain such compensation in addition to the salary paid him by the city. The city clerk shall perform such other and further duties as may be prescribed herein or by any ordinance of said city, and any fees allowed to him by any ordinance may be retained in addition to his regular salary.

SEC. 9. *Deputy Clerk; Appointment of.* The city council shall, whenever it is deemed necessary, have the power to appoint, upon the nomination of the city clerk, a deputy clerk. Whenever the clerk and deputy clerk are absent, or are for any reason unable to act, the city council may appoint a clerk pro tempore, and said clerk shall have the same powers and be subject to the same duties and liabilities as the city clerk, and shall be paid for his services out of the salary of the city clerk.

SEC. 10. *City Attorney.* The city attorney shall be a person admitted to practice in all courts of this state, and shall be the legal adviser of all officers of said city upon all subjects arising by virtue of this act. He shall attend and prosecute or defend all suits, actions or proceedings, either civil or criminal, for or on behalf of said city or in which the city may be a party. He shall, when required, furnish written opinions upon any subject arising by virtue of this act, submitted to him by the city council or any of its committees, attend the meetings of the council when requested, and shall perform all other professional services incident to his office. He may in his temporary absence or other inability, at his own expense with the approbation of the mayor, designate some other attorney to act in his stead for the time being.

SEC. 11. *City Treasurer; Deposit of Funds.* The treasurer shall receive all moneys, including all taxes, license moneys, fines and other revenues belonging to the city, keep an accurate and detailed account thereof, in such manner as the council may direct, shall pay out money only on orders drawn upon him duly signed by the mayor and attested by the clerk of said city, and make such reports, exhibits and perform such other and further duties as may be required by the charter and ordinances of said city.

All the funds of the city of Albert Lea shall be deposited by the city treasurer in one (1) or more national, state or private bank or banks in the name of the city treasurer in his official capacity and not otherwise, whenever the city council may so direct. Such bank or banks shall be designated or redesignated by the city council in their discretion at any time after advertising in one (1) or more newspapers in the county (or if the public interests may require, in one (1) or more newspapers published in the state), once in each week for at least two (2) weeks, for proposals stating what security would be given to said city for such funds and what interest on monthly balances of the amount so deposited, on condition that the said funds with accrued interest shall be held subject to draft and payment at all times on demand.

Before any such bank or banks shall be designated as such depository, such bank or banks shall deposit with the city clerk of said city, for the examination and approval by the city council a bond with two

(2) or more sureties payable to the city of Albert Lea, and shall be in such amount and for such period as the city council shall direct which amount shall be at least double the amount of the funds to be deposited with such bank or banks.

Whenever any portion of the funds of said city shall be deposited by the city treasurer in the manner as provided by this act, such treasurer and the sureties on his bond shall be exempt from all liabilities thereon by reason of the loss of any such deposited funds from the failure or other acts of such bank to the extent and amount of such funds in the hands of such bank.

Every depository designated under the provisions of this act shall at all reasonable times permit an examination of the city treasurer's account upon the books of said depository by the city council or a committee appointed for that purpose. All sums of interest accruing upon the funds deposited with any bank or banker under the provisions of this act shall be credited to such deposit account on the first day of each month for the month preceding, and a monthly statement of such interest as computed on the balances shall be rendered to the city clerk forthwith, who shall charge the city treasurer with the amount thereof and credit the same to the general fund.

SEC. 12. *City Justices.* The city justices shall possess all the authority, powers, rights and duties, and receive like compensation as justices of the peace of this state and have concurrent jurisdiction with the justices of the peace of the county of Freeborn, and shall have exclusive jurisdiction to hear all complaints, conduct all examinations and trials for offenses committed within the city cognizable before a justice of the peace for violation of any provision or provisions of this charter and any ordinance, by-law, rule or regulation made or adopted by virtue thereof, and in all cases of offenses committed against the same, and all cases in which the city is a party, except as hereinafter otherwise provided.

In all cases for assault, batteries and affrays, and all other offenses not indictable, and in all civil suits or proceedings before said city justices, the same forms and proceedings shall be had and used, when not otherwise herein 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. *Provided*, that in cases of prosecutions for breach or violation of an ordinance, by-law or regulation of said city or its charter, or for any assault, battery or affray, or other offense cognizable before a justice of the peace or the city justices, committed within the city limits, no appeal shall be allowed when the judgment or fine imposed, exclusive of costs, does not exceed twenty-five (25) dollars.

In all cases of conviction for assaults, batteries and affrays within said city, and in all cases of conviction under any ordinances of said city for breaches of the peace, disorderly conduct, keeping or maintaining disorderly or ill-governed houses, the said justices shall have power, in addition to the fine or penalty imposed, to compel such offenders to give security for good behavior and to keep the peace for a period of not exceeding six (6) months and in a sum of not to exceed five hundred (500) dollars.

All fines and penalties imposed by said city justices for offenses committed within the limits of said city, shall belong to and be a part of general revenue of said city. The city justices shall also have power, in cases under this charter and ordinances of the city, when punishment is by imprisonment, or by imprisonment in default of fine, to sentence the offender to hard labor in any workhouse established or designated by the city for that purpose, or in case of male offenders to sentence them to labor on the streets, public works or improvements of the city, until such person shall work out the amount of such fine and costs at such a rate per day as the city council may fix upon; and may punish and sentence such offenders by imprisonment and to be fed on bread and water whenever to their discretion it may appear just and proper.

The city justices shall have authority and may commit any person or persons liable to imprisonment under the charter or ordinances of said city, to the county jail of Freeborn county and such persons shall be in charge of the sheriff of said county as in other cases, except as provided herein.

In all actions, prosecutions and proceedings of every kind before either of the city justices, such city justice shall take judicial notice of all ordinances of said city, and it shall not be necessary to plead or prove such ordinances in said courts.

And it is further provided, that whenever, in any action or proceeding before either of said city justices except in prosecutions for violation of the ordinances of said city, the defendant in such action, or proceeding, shall apply for a change of venue, under the laws of this state, if he or his attorney at the same time, shall in his affidavit for such change of venue, make oath, that the other and remaining city justice (naming him) is interested in the result of said action or is a material witness for said defendant, without whose testimony he cannot safely proceed to trial, or that from prejudice, bias, or other cause, he believes that such other city justice (naming him) will not decide impartially in the matter, then upon the filing of such affidavit with the city justice before whom such action is then pending, such city justice shall transfer such action, and all papers appertaining to the same, to one of the justices of the peace, of the town of Albert Lea, who shall become thereupon possessed of jurisdiction, and full power to hear and determine such action, and shall proceed to hear, try and determine the same according to law, whether such action was commenced under the ordinances of said city or the laws of this state.

SEC. 13. *Acting City Justices.* In the absence, sickness, or other inability of both of the city justices, the mayor may by warrant authorize any other justice of the peace of the county of Freeborn, to act and perform, within said city, the duties of said city justices, who shall possess for the time being, all the authority of a city justice without any further act whatever, and in such cases, it shall be the duty of the mayor to inform the city attorney and chief of police of such substitution.

SEC. 14. *Attendance of City Justices.* Said city justices shall be in attendance at their offices for the transaction of business at such reasonable hours as the city council may prescribe, and complaints

may be made to, and writs and process shall, on request, be issued by them, at all times in court or otherwise.

**SEC. 15. Reports of City Justices.** The said city justices shall, as often as the city council may by rule prescribe, make report to that body of all proceedings instituted before them in which the city is interested, and also account for and pay over to the city treasurer all fines and penalties collected by them belonging to the city; and said justices shall be entitled to receive from the county of Freeborn such fees in criminal cases as are allowed by statute to justices of the peace for similar services.

**SEC. 16. Police Officers.** There shall be a chief of police of said city who shall perform such duties as shall be prescribed by the city council for the preservation of the public peace and as may be required of him by ordinance.

All police officers of said city shall be and 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 justices for any violation of the laws of the state of Minnesota or the ordinances, by-laws or regulations of said city, and also all writs and process issued by said city justices in civil actions; and they shall have authority to pursue any person fleeing from justice anywhere in this state, and when performing the duties of constables as aforesaid, shall be entitled to like fees.

It is the duty of all police officers to see that all ordinances, health and police regulations are duly observed.

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 the ordinances or by-laws of the city; and for these purposes shall have the powers of constable at common law while on duty. *Provided*, that no person shall be eligible to an appointment of police officer who is not able to read and write the English language, of good health and physique and a resident of said city.

**SEC. 17. Penalty for Assuming to Act as Police Officer.** If any person shall, without authority, assume to act as a policeman or wear the badge of policeman within said city, he shall be deemed guilty of a misdemeanor, and on conviction thereof before one of the city justices he shall be fined such amount or imprisoned for a time not exceeding ninety (90) days in the discretion of the court.

**SEC. 18. City Assessor, Qualifications.** The assessor shall at the time of his appointment be a resident, freeholder and qualified elector of said city, shall have and possess all the authority, rights, powers and duties of assessors under the general laws of this state, except as hereinafter provided and qualified. Nothing herein contained shall be construed to prevent one (1) person from holding the office of city clerk and assessor at the same time.

**SEC. 19. Assistant Assessor.** The city council may also, whenever it shall deem it necessary, authorize the said assessor to appoint one (1) or more assistants, who shall have the same qualifications as the assessor, to aid him in said assessment, and whose compensation shall be fixed by the city council, but no appointment of assistant shall be valid or of force until the same is confirmed by vote of the city council.

SEC. 20. *Board of Review, Powers and Duties.* The city council shall constitute the board of review, who shall be sworn according to law as such board, and meet at the council rooms in said city at the time provided by law for the meeting of town boards of review, and revise, amend and equalize the assessment made by the city assessor. It shall be the duty of the assessor to be present at all the meetings of said board and act as clerk thereof, and present to them all facts relating to the assessment. Such board of review is vested with all the powers which are or may be vested in county boards of equalization under the general laws of this state, but shall not be restricted by any limitation in respect to reducing aggregate sums of real and personal property as returned by the assessor. They shall receive as compensation for their services the sum of two (2) dollars per day.

SEC. 21. *City Surveyor.* The duties of the city surveyor shall be prescribed by the city council and said officer shall be a practical surveyor and engineer. He shall file with the city clerk all surveys, plats, plans and estimates made by him for the city and they shall be the property of said city and open for the inspection of all parties interested.

SEC. 22. *Street Commissioner.* The street commissioner shall, under the direction of the council or a committee thereof, superintend all work and improvements on the streets, bridges and public grounds of said city, and carry into effect all orders and ordinances of the city council or orders of the street committee of said body in relation to work or improvements on the streets, roads, sidewalks, alleys, bridges and public grounds, and it shall be his duty to see that the same, when graded and opened for travel are kept clear from obstruction and in such repair as to be safe and passable, and shall perform such other services as are hereinafter prescribed, and account for all money collected or property received or under his control belonging to the city.

SEC. 23. *To Collect Poll Tax; Interest in Contract.* No street commissioner shall be interested in any contract for any work to be done under his charge, nor be allowed compensation for any use of team owned by himself or in which he has an interest. In the collection of the corporation or poll tax the street commissioner shall have and possess all the powers and authority with respect to warning persons to work the same as are possessed by road overseers in that behalf by the general laws of this state; and upon the neglect or refusal of any person or persons so assessed to pay such corporation or poll tax as required by this act or the ordinances or resolutions of said city, or when said tax shall have become delinquent according to the provisions thereof, the said street commissioner shall have and possess the power and authority to sue and collect the same and the whole thereof by suit or suits against any person or persons so neglecting or refusing to pay the same, and to prosecute any suit or suits to judgment and collect the same by execution whenever ordered or requested so to do by the city council of said city, which said suits shall be instituted and carried on in the name of the city of Albert Lea, *provided*, that no change in the office of street commissioner during the pendency of any such suit shall affect such suit or abate the same to any extent whatever.

SEC. 24. *Road Districts, how Created.* The city council may divide said city into two or more road districts and then that body may appoint a sufficient number of deputy street commissioners, who shall have the same powers and duties as are prescribed in the preceding sections.

SEC. 25. *Official Paper, how Designated.* The city council at their first (1st) meeting after the annual election in each year, or as soon thereafter as may be, shall designate one newspaper printed in said city as the official paper of the city, in which shall be published all ordinances and other proceedings and matters required by this act or the by-laws or ordinances of the city council to be published in a public newspaper. *Provided*, that the city council may order the publication of ordinances, advertisements, proceedings or such resolutions as may be of general importance, in such other newspapers as they may direct. The printer of the official paper so designated shall be styled the city printer.

SEC. 26. *Officers to Turn Over Property.* Any person having been an officer of said corporation shall within three(3)days after notification and demand, deliver to his successor in office or other duly authorized person or persons, all property, papers and effects of every description in his possession belonging to said city or pertaining to his office; and if he fail so to do he shall forfeit and pay to the use of said city the sum of five hundred (500) dollars, to be recovered in a civil action, besides all damages caused by his neglect or refusal to so deliver, and said successor may receive possession of such books, papers and effects in the manner prescribed by the laws of this state.

SEC. 27. *Duties of City Printer.* The city printer or printers immediately after the publication of any notice, ordinance or resolution, which by this act is required to be published, shall file with the clerk of the city a copy of such publication, with his or their affidavit, or the affidavit of his or their foreman or printer, of the length of time the same has been published, and such affidavit shall be conclusive evidence of the publication of such matter, and no account for the publication of such notice, ordinance, resolution or other matter shall be allowed or paid by the city council until such proof of publication has been made and filed.

SEC. 28. *Officers to Make Returns of Property.* All officers of the city having charge of any city property, shall at the close of each fiscal year, and at other times when required, make and return to the city council a complete inventory of all public property in their hands or under their control respectively. Such inventories shall be preserved and filed by the city clerk and kept open to inspection but need not be printed in the proceedings unless the council shall so specially direct.

SEC. 29. *Other Duties of Officers Required; Other Officers Appointed.* The city council shall have the power at any time to define and require other and further duties to be performed by any officer whose duties are herein prescribed, not inconsistent with this act, and to create such further offices and appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their powers and duties and fix their compensation unless herein otherwise provided for.

SEC. 30. *Salaries of all City Officers; by Whom Fixed.* The city council shall have the power to fix the compensation or salary of all officers elected or appointed under this act. They also have the power to fix their own salary or per diem for the time necessarily spent in attending to the duties of their office and attending their meetings; *provided*, however, that the salary of each city councilor shall not exceed the sum of fifty (50) dollars in any one (1) year.

All salaries shall be fixed by resolution at the time the office is created and at the commencement of the official year, or as soon after election or appointment as practicable, and when so fixed shall not be increased or diminished during the term for which such officer shall have been elected or appointed.

SEC. 31. *Exemption from Jury Duty.* All officers of the city, while holding such office, shall be exempt from serving as jurors in any court.

SEC. 32. *City Officers not to be Interested in Contracts.* That no city councilor or other officer of said city, while acting as such, shall directly or indirectly be a party to, or interested or concerned in any contract or job with said city or in any work prosecuted by its authority, or in the compensation to be received therefor; and any contract or transaction prohibited as aforesaid, shall be void, and any city officer so offending shall, on conviction thereof, be removed from office by the city council.

SEC. 33. *Officers of the Peace.* The mayor, acting mayor, sheriff of the county of Freeborn or his deputy or deputies, coroner, and each city councilor, the city justices, chief of police, police officers and watchmen, shall be officers of the peace, and shall command the peace and suppress in a summary manner all rioting and disorderly behavior within the limits of the city, and for such purpose may command the assistance of bystanders, and if need be, all the citizens, organized or unorganized forces, and military companies; and if any person, bystander, military officer or private, shall refuse in maintaining the peace when so required, each person shall forfeit and pay a fine of not less than ten (10) dollars nor more than fifty (50) 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 named, shall direct the proceedings.

SEC. 34. *Officers Administer Oaths.* The mayor, president of the council or presiding officer thereof, the presiding officer of the board of review, and the chairman of the board of public works, shall by virtue of their office in all matters or proceedings before them relating or appertaining to the city, be and are hereby empowered to administer oaths and receive testimony under oath or affirmation.

## CHAPTER IV.

## THE CITY COUNCIL. GENERAL POWERS AND DUTIES.

SEC. 1. *City Council, Quorum, Style of Ordinances.* The city councilors shall constitute the city council of the city of Albert Lea, and a majority thereof shall constitute a quorum, but a smaller number may adjourn from day to day and compel the attendance of absent members.

The style of all ordinances shall be: "The city council of the city of Albert Lea do ordain."

SEC. 2. *Regular and Special Meetings of Council.* The city council shall hold regular or stated meetings at such times and places as they by resolution may direct. The first regular meeting after the annual election shall be held on the second Tuesday of April in each year. The mayor, or at his refusal, any four (4) councilors, may call special meetings by notice to each of the members, to be delivered personally or left at their usual places of abode.

SEC. 3. *City Council Judge of Election of its Members; Rules of Procedure.* The city council shall be the judges of the election, return and qualification of its own members and in such cases have the power to send for persons and papers. It shall determine the rules of its own proceedings, punish its members for disorderly conduct and with the concurrence of two-thirds of all the councilors elected, expel a member after due notice given and an opportunity extended to the accused to be heard by counsel or otherwise, shall have power to compel the attendance of absent members and may provide for the punishment of such absent members. Continued absence from the meetings of the city council by any of its members for six (6) regular consecutive meetings shall be deemed good cause for removal.

SEC. 4. *Record of Proceedings.* The city council shall keep a journal of its proceedings, and the ayes and noes, when demanded by any member present, shall be entered on the journal.

SEC. 5. *Control of Finances and Property; Power to Enact Ordinances.* The city council shall have the management and control of the finances and all the property of the city, and shall likewise, in addition to the powers herein vested in them have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify amend and appeal all such ordinances, by-laws, rules, regulations and resolutions for the government, good order, and cleanliness of the city, the protection of its property, for the suppression of vice and intemperance, the benefit of trade and commerce, and for the prevention of crime as they shall deem expedient; they shall have power to establish and maintain a city prison, work-house and watch-house, and make all needful rules and regulations therefor, for the imprisonment, custody and safe-keeping of all persons arrested for or charged with any offense whatever; the city council shall have the exclusive right to exercise all the legislative powers granted by this act to the corporation and has full power and authority to declare and impose penalties and punishments and enforce the same against any person or persons who may violate any ordinance, by-law, rule or regulation passed or

ordained by them, and all such ordinances, by-laws, rules and regulations are hereby declared to be and to have the force of law. *Provided*, they be not repugnant to the constitution and laws of the United States or this state; and for these purposes shall have authority by ordinance, by-law, resolution or regulation:

*First*—To regulate and license exhibitions of common showmen and shows of all kinds, circuses, the exhibition of caravans, concerts and theatrical performances, also to license and regulate all auctioneers, hawkers, pedlars, public halls and other buildings and enclosures used for places of public resort and amusement, billiard tables, pigeon-hole tables, nine or ten-pin alleys, bowling alleys, bowling saloons, taverns and saloons, and all persons vending, dealing in or disposing of spirituous, vinous, malt or fermented liquors, and to provide and enforce such restrictions or prohibitions therefor as to the council seem proper. *Provided*, that all licenses for dealing in spirituous, vinous, malt or fermented liquors, shall terminate on the first (1st) day of July of each year, and shall be at least five hundred (500) dollars and as much higher as the city council shall direct, and the city council shall have the exclusive right to so license any person. And *provided further*, that the city council may grant licenses to druggists and apothecaries to sell spirituous liquors within said city for medicinal, chemical and mechanical purposes only, for such sum as they may deem just and proper without regard to saloon licenses.

*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 authorize the seizure and destruction of all instruments or devices used for the purpose of gambling.

*Third*—To prevent any rioting, noise, disturbance, disorderly assemblages in said city and to provide for the arrest 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 of the same or inmates thereof.

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

*Fifth*—To regulate or prohibit the slaughtering of animals within said city, to direct the location and management of slaughter-houses and markets, breweries, distilleries, and to establish rates for and license venders of gunpowder, and regulate the storage, keeping and dealing in, and conveying of gunpowder or other explosive or combustible oil, substances or materials within said city of Albert Lea; and to cause and compel the keeping, storing and dealing in and conveyance of all combustible, explosive and dangerous substances or materials within said city in such manner and in such place or places as they may deem expedient and direct.

*Sixth*—To prevent the incumbering of streets, sidewalks, alleys, lanes or other public grounds with carriages, carts, wagons, sleighs,

boxes, lumber, firewood, posts, awnings, signs, or any other material or substance whatever.

*Seventh*—To prevent and punish horse racing, immoderate riding or driving in the streets; to compel persons to fasten their horses or other animals attached to vehicles or otherwise, while standing in the streets; and to regulate places for bathing and swimming in the waters within the limits of said city.

*Eighth*—To restrain the running at large of horses, mules, cattle, swine, sheep, poultry, geese, or other animals, and to authorize the distraining and sale of the same, and to impose penalties on the owners of such animals for violation of the ordinances. *Provided*, that when a sale of such animals shall be made, the proceeds thereof, after deducting the expenses of distraining, keeping, advertising and selling the same, shall be deposited in the office of the treasurer of the city for the use and benefit of the owner or owners thereof, if called for by such owner or owners within one (1) year from the day of sale, otherwise the same shall belong to the city.

*Ninth*—To prevent the running at large of dogs, may impose a tax or license on the same, impose fines upon the owners or keepers and authorize the destruction or killing of dogs when at large contrary to the ordinances.

*Tenth*—To prevent all persons riding or driving any horse, mule, ox, or other animal on the sidewalks, or other public grounds or property in said city, or in any way doing any damage to said sidewalks, grounds or property.

*Eleventh*—To establish and regulate boards of health, provide hospitals and hospital grounds, the registration of births and deaths, and the returns 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, to improve and ornament the same and make all regulations necessary for the care, protection and government thereof.

*Twelfth*—To prevent the discharge of firearms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the city council dangerous to the city or any property therein, or annoying to any of the citizens thereof.

*Thirteenth*—To regulate the size and weight of bread and to provide for the seizure and forfeiture of bread baked contrary thereto, to regulate the inspection of flour, pork, beef, salt, fish, whiskey and other liquors and provisions; and to appoint inspectors, measurers, weighers and gaugers and to prescribe and regulate their duties and compensation.

*Fourteenth*—To restrain and punish vagrants, tramps, mendicants, street beggars and prostitutes.

*Fifteenth*—To prevent open and notorious drunkenness, immoderate drinking, brawling and obscenity within the city of Albert Lea, and to provide for the arrest and punishment of all persons who shall be guilty of the same.

*Sixteenth*—To direct and regulate or prohibit in any parts of the city the planting and preservation of shade or ornamental trees in the streets, alleys, highways and public grounds of the city and to pro-

vide for the punishment of any violation of the ordinances relating thereto.

*Seventeenth*—To regulate the place and manner of weighing and selling hay, straw and other substances or feed; and the measuring, weighing and selling of firewood and other fuel and to appoint suitable persons to superintend and conduct the same, to provide for a standard of weights and measures; for the appointment of a city sealer, (to 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.

*Eighteenth*—To provide for, prescribe and regulate or prohibit the erection of hitching-posts, or rings, or fastenings, for horses or other animals, and to prohibit the same in any portion of the city.

*Nineteenth*—To define and declare what shall constitute a nuisance, and enact ordinances to prevent the same and punish violations thereof, and to remove and abate any nuisance injurious to the public health or safety, and to provide for the punishment of all persons who shall cause or maintain such nuisance.

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

*Twenty-first*—To do all acts and make all regulations which may be necessary and expedient for the preservation of health and the suppression of disease, and to make regulations to prevent the introduction or spread of contagious diseases in the city; to make quarantine laws, and enforce the same within the city.

*Twenty-second*—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, fish, hides, skins or substances of any kind; to provide for the punishment of any violation of the same, and to authorize the removal of the same at the expense of the owners.

*Twenty-third*—To establish and construct public pounds, pumps, wells, cisterns, reservoirs and hydrants; to provide for and control water-works, and the water supply of the inhabitants of the city, and regulate water rates; create, alter and extend water districts; to provide for the lighting of the city; to create, alter and extend lamp districts; to control the erection of gas-works, or other works for the lighting of the city streets, public grounds and public buildings.

*Twenty-fourth*—To regulate and license hacks, drays, carts, omnibuses, wagons and other vehicles engaged in hauling or carrying for hire, and the charges of the drivers of such vehicles; prescribe standing places in the streets therefor, and to authorize the mayor or chief of police to regulate and direct the location of vehicles in the streets or alleys within said city.

*Twenty-fifth*—To compel the owner or occupant of buildings or grounds to remove snow, ice, dirt or rubbish from the sidewalk, street or alley opposite thereto, and compel such occupant or owner to remove, from the lot owned or occupied by him, all such substances as the board of health shall direct, and in his default to authorize the removal or destruction thereof by some officer of the city, at the ex-

pense of such owner or occupant. Also to compel the owners of low grounds where water is liable to collect and become stagnant, to fill or drain such low places, and in their default to authorize such filling or draining at the expense of such owner or owners.

*Twenty-sixth*—To license and regulate butcher shops, meat-markets and stands for the sale of game, poultry, butcher's meats, butter, fish and other provisions.

*Twenty-seventh*—To regulate the time, manner and place of holding public auctions or vendues, and sales at public outcry.

*Twenty-eighth*—To restrain and regulate parties, processions, runners, porters, agents and solicitors for boats, vessels, stages, cars, public houses or other establishments.

*Twenty-ninth*—To establish public markets and other public buildings, make rules and regulations for the government of the same, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations and to appoint suitable officers for overseeing, caring for and protecting the same.

*Thirtieth*—To prevent, control and regulate the landing of persons from boats, vessels, 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; and also to regulate, control and prevent the landing of paupers and persons in destitute condition in the city not having a legal residence or settlement therein and to require that such persons be taken back to the place from whence they may have been brought by the persons bringing or leaving them in said city.

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

*Thirty-second*—To regulate or prohibit the carrying or wearing by any person of concealed, dangerous or deadly weapons and to provide for the confiscation thereof to the city.

*Thirty-third*—To control and regulate the cutting of ice within the city of Albert Lea.

*Thirty-fourth*—To regulate the opening of hatchways, and compel proper guards about the same.

*Thirty-fifth*—To regulate the movement and speed of railroad locomotives and cars, to require the maintenance of flagmen or the construction and maintenance of gates at the crossings of railroad tracks over such streets and highways as the city council may deem necessary; to prevent any railroad company from obstructing the streets or crossings in said city for a time exceeding ten (10) minutes, accidents excepted, and any conductor or engineer of any railway train, car or locomotive who shall obstruct any street crossings in said city for a time exceeding ten (10) minutes shall be guilty of a misdemeanor and on conviction be fined not less than ten (10) dollars nor more than one hundred (100) dollars, and costs, and be imprisoned until said fine and costs are paid, not exceeding ninety (90) days, in the discretion of the court.

*Thirty-sixth*—To compel railroad companies to grade their crossings of the streets, alleys and highways in the city to the full width

and length of their right of way in said streets, alleys or highways where the railroads cross the same in said city, and to keep the same in repair and to build and maintain suitable walks across the rights of way in said streets for the accommodation of the public, and to build and maintain bridges, culverts, drains and sewers across the full width of their right of way in the streets, alleys and highways in said city when and where the same shall be deemed necessary by the city council of said city.

*Thirty-seventh*—To name, change and regulate the names of streets, avenues and highways in said city, and to regulate the numbering of houses and lots and to compel the owners of houses and other buildings to have the numbers of such houses or buildings designated thereon.

*Thirty-eighth*—The city council shall have power to expend the highway labor or poll tax and highway moneys on the highways and roads beyond the city limits whenever they deem it proper and direct the street commissioner or such other person as they may designate when, where and in what particular manner to expend the same.

*Thirty-ninth*—To levy and collect taxes, provide suitable buildings or offices for all necessary purposes of the city, appropriate money and provide for the expenses of the city government; and to provide for the taking of an enumeration of the inhabitants of said city from time to time.

*Fortieth*—To establish, lay out, alter, open, widen, extend, vacate, grade, repair, pave and lighten or otherwise improve and keep in repair the streets, alleys, highways, sidewalks, culverts, gutters, sewers, parks, cemeteries and other public grounds in said city; also to regulate the width, material, construction and surface line of sidewalks, to prescribe different widths in different localities and to prevent damages thereto.

*Forty-first*—To establish and record with the city clerk grades of streets, alleys, highways and walks to which buildings and other erections shall conform, and to provide for the enclosing, improving, adorning and regulating all the public buildings and grounds belonging to the city.

*Forty-second*—To regulate and control or prohibit the placing of poles and suspending thereon or stringing of telegraph, telephone, electric light or other wires along or across any of the streets, alleys, highways or public grounds of said city, and may order the same to be put under the ground in the streets, highways or public grounds of said city.

*Forty-third*—To provide for or contract with any person, persons or corporation for the lighting of such streets, parts of streets, public buildings and places as the city council shall deem proper for the convenience and safety of the inhabitants, and also for supplying the city with water.

*Forty-fourth*—The city may lay, regulate or permit any party or corporation to lay gas or other pipes in any and all the streets, alleys, highways and public grounds of the city, but in all cases the city council shall regulate the laying thereof so as not to interfere with the construction of sewers or lateral branches thereof or with the proper drainage of the city.

*Forty-fifth*—To prescribe limits in which neither wood, lumber, lath, shingles, hay or other combustible materials can be piled or stored, or lumber yards established or maintained.

*Forty-sixth*—To appropriate such reasonable sum as they think proper for the payment of music in the public parks of the city as the council may determine.

*Forty-seventh*—To regulate the penning, herding and treatment of all animals within the city.

*Forty-eighth*—To direct the location, regulate and prescribe the construction of privies and vaults, to require and provide for the removal and disposition in such manner with private parties or otherwise throughout the city or in such districts of any or all swill, offal, garbage, ashes, barnyard litter, manure, yard cleanings, dead animals, foul or unhealthy stuff with the authority to assess, levy upon or compel the payment of the expense of such removal upon the property or owners thereof from which such above named matter or things shall be taken.

*Forty-ninth*—To provide for or require owners of buildings or other structures which shall have been damaged by fire otherwise or which by reason of dilapidation, defects in construction or other causes may have or shall become dangerous to life or property or liable to cause accidents, to take the same or any part thereof down or remove the same, and in case of refusal or neglect of said owner to take down and remove the same when ordered by the officer designated by said city council then to cause the same to be done at the expense of the owner, the cost thereof to be again raised by special assessment on the land on which the same stands.

*Fiftieth*—To regulate and control the flowage of the waters of Fountain Lake in said city, and to regulate fishing within the waters and streams in the limits of said city and within the police limits and jurisdiction thereof.

SEC. 6. *Punishment for Breach of Ordinances.* Fines, penalties and punishments imposed by the city council for the breach or violation of any ordinance, by-law, or regulation of said city, may extend to a fine not exceeding one hundred (100) dollars or imprisonment not exceeding ninety (90) days, or both, or to be fed on bread and water in the discretion of the court, and offenders against the same may be required to give security for their good behavior and to keep the peace not exceeding six (6) months and in the sum not exceeding five hundred (500) dollars.

SEC. 7. *Offenders may be put to labor.* The city council may also provide by ordinance, that any one convicted of an offense before a city justice subjecting such offender to imprisonment under the charter and ordinances of said city may be kept at hard labor in any work house established or designated for that purpose, or in case of a male offender may be kept at hard labor during his term of imprisonment in such work house or upon the streets, highways or public works, or improvements of said city, or both, and may also provide by ordinance that any one convicted of an offense before a city justice and committed upon non-payment of the fine imposed may be kept at hard labor in any work house of said city aforesaid, or in case of a male offender may be kept at hard labor either in such work house or

upon the public streets, highways or public works or improvements, or both, until such person shall work out the amount of such fine at such a rate of compensation as the city council may prescribe, for a time not exceeding said commitment, and the city council shall have power to establish by ordinance or otherwise all useful rules and regulations for the security of such persons thus employed, and to prevent escape and secure proper discipline.

SEC. 8. *Abatement of Nuisances by suit not Prevented.* The powers conferred upon the city council to provide for the abatement or removal of nuisances shall not bar or hinder suits, prosecutions or proceedings in courts according to law.

SEC. 9. *Revocation of Licenses.* The mayor or city council shall have power at any time to revoke and cancel for cause a license issued under this act or by authority of any ordinance by serving written notice upon the person holding the same that such license is revoked or cancelled and the same shall thereafter be null and void, and if such license be revoked by the mayor he shall notify the city council at its next meeting thereafter of the cause of revoking and cancelling such license. The city council may reinstate such license as revoked by a majority vote of the members of the whole city council and thereafter the same shall be valid until revoked or cancelled again, and on conviction before a city justice of any person holding a license, for a violation of the provisions of any ordinance relating to the exercise of any right granted by such license or for malconduct in the course of trade, the said court may, and upon a second conviction shall revoke such license in addition to the penalties provided by law.

SEC. 10. *Ordinances How Passed and Published.* All ordinances, by-laws and regulations of the city council shall be passed by an affirmative vote of a majority of all the members of the city council present, by ayes and nays which shall be entered in the record, approved by the mayor and published in the official paper of the city before they shall take effect. No ordinance shall be passed at the same meeting at which it shall have been presented or proposed, except by unanimous consent of the members present, which shall be noted in the record, but this shall not preclude the passage of any ordinance reported by any committee of the council to whom the subject of such ordinance shall have been referred at any previous meeting.

SEC. 11. All ordinances after the same are approved shall be recorded by the city clerk in a separate book provided for that purpose and the affidavit for the publication thereof shall be recorded therewith and the record of said ordinance and affidavit of publication or a certified copy thereof shall at all times be deemed and taken as sufficient evidence of such publication; and all ordinances heretofore passed by said city may be proven in like manner and the record thereof and of the affidavit of publication or a certified copy shall be sufficient evidence of the publication of the same.

SEC. 12. *Ordinances etc., How Authenticated.* That all books and pamphlets published or which may be published, purporting on their title page to be published by the authority, order or direction of the city council, and purporting to contain the charter and ordinances of

said city, standing rules, orders or resolutions of said city council or either, are hereby declared to be competent and prima facie evidence of the contents thereof, and of the regularity of all proceedings relating to the adoption, approval and publication thereof and shall be admitted as evidence in any court of this state without further proof; and the certificate of the city clerk that any printed slip or paper to which such certificate may be attached, contains or is a true copy of any ordinance, resolution, proceeding of the city council or other paper, the original of which is presumably in the possession of said city clerk, shall constitute such printed slip or paper competent and prima facie evidence of the contents and purport of such ordinance, resolution or proceeding of the city council or other paper, and of the legal passage, adoption, approval and publication thereof.

SEC. 13. *Temporary Loans how Effected.* The city council may during the fiscal year, by a vote of two-thirds of those present and voting, issue the bonds or other evidence of indebtedness of said city, bearing interest not exceeding nine (9) per cent per annum and for a time not exceeding one (1) year, in such amounts and under such regulations as the council may prescribe, in anticipation of the taxes and revenues of such fiscal year. *Provided*, that the amount of such bonds or other evidence of indebtedness outstanding shall not at any one time exceed one-third of such taxes and revenues, and provided further, that the proceeds of such bonds or evidence of indebtedness shall be applied to the same purposes as the taxes and revenues in anticipation whereof they may have been issued.

SEC. 14. *Purchase, Condemnation etc., of Property.* The city council shall have power to acquire by purchase, lease, donation, grant or condemnation such private property as may be necessary for sites for public buildings or grounds for the use of the city and all other necessary purposes thereof in manner as herein provided, and may by a unanimous vote of all the members thereof sell and convey such real estate as the city may own and which is not needed for municipal purposes; and all conveyances heretofore made and executed by said corporation are hereby legalized and ratified.

SEC. 15. *Adjustment of Accounts of City Officers.* The city council shall examine and adjust the accounts of all city officers and agents of the city, at such times as they may deem proper, and may require such officers or agents, whenever they deem it necessary, to exhibit to them all their books and papers belonging to their respective offices; and if such officer or agent shall refuse to comply with the order of the city council in discharge of their duties in pursuance of this section, the council shall declare the office of such person vacant, and may commence suit or proceedings at law against such officer or agent who may be found delinquent, or defaulting in his accounts or in the discharge of his official duties. The council shall make full records of all such settlements and adjustments.

SEC. 16. *Plats of Subdivisions of Tracts of Lands.* Whenever any person shall subdivide any lot or piece of ground within said city he shall cause the same to be surveyed and platted in accordance with the provisions of the general law of this state relating to town plats, and when the survey and plat are so completed and acknowledged, it shall be presented to the city council; said city council may accept or

reject said plat, or direct it to be changed or modified in such manner as it shall deem expedient. When any plat is accepted by the city council, the city clerk shall so certify upon the face of such plat with the corporate seal, when it may be recorded in the same manner and with the same effect as provided for by general law.

SEC. 17. *Powers how Exercised.* If in any case any of the powers granted to said city council to be exercised by ordinances named in section five (5) of this chapter, or other provisions of this act, cannot well be exercised by the passage of ordinances, then, and in that case, the said city council may exercise any of said powers by means of the passage of resolutions.

SEC. 18. *Jurisdiction of Board of Health, Justices and Police.* That the jurisdiction of the board of health of the city of Albert Lea shall extend over all bodies of water, water-courses, cesspools, or stagnant pools or ponds, and other dangerous or unhealthy substances or objects embraced within and to include the territory of the town of Albert Lea one (1) mile from the corporate limits of said city in every direction.

SEC. 19. That the jurisdiction of the city justices, of the board of health, and the powers of the police of said city of Albert Lea, shall extend over and include all the territory mentioned in the preceding section of this chapter, for the purposes of enforcing the police regulations and ordinances regulating the police jurisdiction of said city, and the authority and jurisdiction of said board of health, the said justices, board of health, and police shall have power and authority to enforce the said jurisdiction, powers and regulations over and within said territory, in like manner and to the same extent as possessed within the limits of said city; *Provided*, that this power and authority shall not be construed as abridging or interfering with the general authority and powers of the supervisors of the town of Albert Lea in other respects not in this act enumerated; *Provided further*, that the city council of the said city of Albert Lea is, and shall be authorized to assist in improving and repairing the public highways and bridges within said one (1) mile territory, and to expend additional sums therefor, if deemed necessary by said city council.

SEC. 20. *Powers not to be Exercised by Town Supervisors.* The said town of Albert Lea is hereby prohibited from granting or issuing any license within the territory mentioned and described in section eighteen (18) of this chapter, to any saloon, show, circus or menagerie, but the powers to grant or enforce any such license shall be exercised by the city council of the said city of Albert Lea.

## CHAPTER V.

### TAXES AND FINANCES.

SEC. 1. *Revenues of the City.* All property, real and personal within the city except such as may be exempt by the laws of this state shall be subject to taxation for the support of the city government and the payment of its debts and liabilities, and all taxes shall be assessed and collected in the manner provided for by the general laws.

of this state, except as hereinafter expressly provided. *Provided*, that nothing herein contained shall be construed as limiting the levying and collection of special assessments as provided for in this act.

SEC. 2. *Levy of Tax for Current Expenses.* The city council shall have power to annually levy taxes on all taxable property in said city to defray the current expenses thereof, but such assessment and levy shall not exceed five (5) mills upon the dollar of the assessed valuation of such property.

SEC. 3. *Levy of Tax for Improvements.* The city council shall have power to levy a special tax upon all taxable property within said city for the purpose of constructing and maintaining bridges, culverts, grading and improving streets, alleys and highways, including the building and repairing of sidewalks, cross-walks and sewers, and for other necessary and proper purposes of the city, or conducive to good order and cleanliness, and the protection against crime, disease and fire. *Provided*, that such taxes shall in no year exceed ten (10) mills upon the dollar of the assessed valuation. *Provided further*, that for the improvements in this section mentioned the city council shall have the power to assess the tax to pay the same upon the ward or property benefited by such improvements, to such extent as the council think just and equitable, and in the manner as is herein provided.

SEC. 4. *Poll Tax Levy and Collection.* Every male inhabitant of said city between the ages of twenty-one (21) and fifty (50) years, excepting such as are exempt by law who may reside within the limits of said city at any time between the first (1st) day of May and the first (1st) day of November of each year and that have not worked or paid poll tax in any other place shall be liable to a capitation or poll tax, and it shall be lawful for the city council at any time to levy the same, but such poll tax shall not in any one(1)year exceed two(2) days work for each person liable therefor, which may be commuted by any party so taxed by payment to the street commissioner of the sum of one (1) dollar and fifty (50) cents per day, and the street commissioner shall expend all moneys so received on the streets, alleys and highways under the direction of the city council. The laws of this state shall apply to warning, working and enforcing the collection of such poll tax, except as otherwise herein expressly provided.

SEC. 5. *Money how Paid Out.* No money shall be paid out of the city treasury unless such payment is authorized by a vote of the city council and these shall be drawn out only upon orders by the mayor and countersigned by the city clerk, which orders shall specify the purpose for which they were drawn and the fund out of which they are payable, 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 city council may determine and may be transferred by endorsement.

SEC. 6. *Bonds How Voted on and Issued.* The city council shall have power and authority to borrow money, issue bonds and levy taxes for the purpose of carrying out any of the provisions of this act exceeding the amount authorized by other sections of this act, provided the same be authorized by a majority of the taxable inhabitants who are qualified voters present and voting at a general or special election held for that purpose for which notice is given as at other

elections. Whenever it shall be desired to submit to a vote the question of the issuing of any bonds authorized by this section, the same may be done in such form and manner as the council by resolution may prescribe. No bonds shall be issued by the city council for any purpose unless so authorized.

SEC. 7. *Bonds, Objects and How Issued.* All bonds issued in pursuance of the provisions of this act shall be under the corporate seal of said city, signed by the mayor and attested by the city clerk and shall upon the face express the object for which they are given and shall not be negotiated for less than par value.

SEC. 8. *Taxes, How Levied.* All taxes may be levied by resolution of the city council and no tax shall be invalid by reason of any informality in the manner of levying the same, nor because the amount levied shall exceed the amount required to be raised for the special purpose for which the same is levied, but in such case the surplus shall go into the general fund of the city.

SEC. 9. *Statement of Taxes Levied to County Auditor.* The city council shall cause to be transmitted to the auditor of Freeborn county on or before the first (1st) day of October in each year a statement of all taxes by them levied and also all special assessments levied upon any of the lots or portions of the city and such taxes shall be collected and the payment thereof enforced with and in like manner as state and county taxes are paid and the payment thereof enforced, and the county treasurer of said county shall pay such taxes over as fast as collected to the treasurer of said city.

SEC. 10. *Limitation of Levy, When Not.* No limitation or restriction herein contained shall be construed to prohibit the levying of taxes to pay any judgment that may at any time be recovered against the city. In case of failure to collect taxes or other cause and such levy shall prove insufficient to pay such judgment, new taxes shall be levied until the whole of such judgment shall be paid. Any excess of the amount so levied and collected over the payment of such judgment shall go into the current fund of the city.

## CHAPTER VI.

### STREETS, SIDEWALKS, BRIDGES AND PUBLIC GROUNDS.

SECTION 1. *City Council to have Control.* The city council shall have the care, supervision and control of all public highways, bridges, streets, alleys, public squares and grounds within the limits of said city; and shall cause all streets that may have been opened and graded to be kept open and in repair and free from nuisances, and shall have power to build and keep in repair bridges, lay out and open alter and vacate public squares, highways, streets, lanes and alleys, and to extend, narrow, widen, or straighten the same, subject to the assessment of damages provided for in this act.

SEC. 2. *Establishment and Change of Street Grades.* The city council shall have power and may cause to be established from time to time, whenever they deem it necessary and as rapidly as the con-

venience of the inhabitants may require, under the direction of a competent surveyor, or the city surveyor, the grade of all highways, streets, sidewalks, alleys and public grounds within said city, and it shall cause accurate profiles thereof to be made and kept in the office of the city clerk in a book or books of profiles kept for that purpose, and whenever such grade aforesaid has once been established it shall not be changed unless by a vote of two-thirds ( $\frac{2}{3}$ ) of all the members of the council elect.

SEC. 3. *Sidewalks, how Built and Maintained.* It is hereby made the duty of all owners of lands adjoining any highway, street, lane or alley in said city to construct, reconstruct and maintain in good order and repair such sidewalks along the side of the street, lane, alley or highway next to and adjoining the land of such owners respectively as may have been heretofore constructed or as shall hereafter be constructed or directed by the city council to be built in such manner and of such material and width and upon such place and grade as the city council may by ordinance or otherwise prescribe.

SEC. 4. *Liability for Insufficient Sidewalks.* It shall not only be the duty of all owners of land within said city to keep in good order and repair all sidewalks constructed or existing or that shall hereafter be constructed or exist along or abutting upon their respective lots or parcels of land, but such owners are hereby declared to be liable for all damages to whomsoever resulting arising from their fault or evident neglect in not keeping any such sidewalk in good repair and in a safe passable condition; and no action shall be commenced or maintained against the city of Albert Lea by any person injured through or by means of any defect in any sidewalk unless the owner of the land along which such sidewalk is so defective is joined in said suit as a party defendant; and in case of judgment against the defendant in such action execution shall at first issue only against the defendant owning such land, and the city shall not be required to take steps to pay such judgment until such execution shall be returned unsatisfied; and if said city shall pay such judgment it shall become the owner of the same and may enforce payment thereof from the other defendant, and shall be entitled to execution therein against him and to take such other proceedings as judgment creditors are entitled to take.

SEC. 5. *Cleaning Streets, etc., How.* The city council shall have power to designate districts or portions of streets, highways and alleys of said city for the purpose of cleaning the same, and may provide for the cleansing of such districts by contract or otherwise and on such terms as may be deemed advisable.

SEC. 6. *Work to be done by Contract.* All work done or constructions or improvements made pursuant to the provisions or requirements of this act may, and when it causes an expenditure of two hundred(200) dollars, or more, shall be done by contract let to the lowest responsible bidder, and in the latter case public notice shall be given and proposals invited for the same in such manner as the council shall direct. Provided that the city council may expend the poll tax or highway labor as they see fit and may be proper, and this section shall have no application thereto, nor the provisions of the act relating to assessments or reference to the board of public works.

SEC. 7. *Liabilities for Obstructions and Excavations in Streets.* All persons who shall by means of any excavations in or obstruction upon any street of said city, not authorized by law, or the ordinances of said city, render such streets unsafe for travel, or who shall by negligence in the management of any such excavation or obstruction as shall be authorized, or by failure to maintain proper guards or lights thereat render such street insufficient or unsafe for travel shall be liable for all damages not caused by the negligence of the party injured, to whomsoever resulting by reason of such obstruction or negligence, and no action shall be maintained against said city for such damages unless such person or persons shall be joined as party defendant, and in case of judgment against the defendants in such action execution shall at first issue only against the defendant causing such insufficiency and the city shall not be required to take steps to pay such judgment until the execution shall be returned unsatisfied; and if the city shall pay such judgment it shall become the owner thereof and may enforce payment of the same from the other defendant or defendants, and shall be entitled to execution therein, against him or them, and to take such other proceedings as judgment creditors are entitled to take.

SEC. 8. *Service upon Absent Defendant.* Whenever any party is joined with said city as co-defendant in any action for the insufficiency of any sidewalk or street and such party is not a resident of and cannot be found within the state, service of the summons in such action may be made upon such defendant upon like evidence and in the same manner as is prescribed by general law for service by publication in other actions.

SEC. 9. *Limitation of Actions.* No action shall be maintained against the city of Albert Lea on account of any injuries received by means of any defect in the condition of any bridge, street, sidewalk or thoroughfare unless such action shall be commenced within one (1) year from the happening of the injury, nor unless notice shall have first been given in writing to the mayor of said city or the city clerk thereof within ninety (90) days of the occurrence of such injury or damage stating the place where and time when such injury was received and the person so injured will claim damage of the city for such injury; but the notice shall not be required when the person injured shall in consequence thereof be bereft of reason. Nor shall any such action be maintained for any defect in any street until the same shall have been graded and open for travel, nor for any insufficiency of the ground where sidewalks are usually constructed when no sidewalk is built.

SEC. 10. *Railroad Company not to Obstruct Streets.* No railway company or street railway company shall have any right in clearing their tracks through any part of said city, or otherwise, to pile up snow or other material and leave the same piled upon any traveled portion of any street in said city. And any such company shall be liable to any person who shall be injured by means of any such obstruction caused by such company or its servants for all damages sustained; and in case any damages shall be recovered against the city for injuries caused by such obstructions the city shall have the right to re-

cover the same from the company by whom the obstruction was caused.

SEC. 11. *No Liability for Insufficiency of Streets, When.* The acceptance of plats of additions of any grounds or subdivisions thereof, either within or outside the limits of said city, shall not make the city liable to grade the streets therein designated, nor responsible for any insufficiency of such streets until the city council shall direct the same to be graded and open for travel.

SEC. 12. *Power to Open New Streets and Assess Damages.* The city council may by a vote of two-thirds ( $\frac{2}{3}$ ) of all the members of city council, vote to lay out or open any new street, alley or public ground, or to straighten, widen or extend any street or alley that now or may hereafter exist, and when such vote is entered and approved, and which shall make it necessary to take, injure or interfere with any private property, the same shall be referred to the board of public works for assessment of benefits and damages caused thereby or provided for by this act, and when that is determined and confirmed a final order for the purposes named shall be entered by the city council.

SEC. 13. *Vacating Streets; Exclusive; Power of Council.* The city council of said city shall have the sole and exclusive power to vacate or discontinue public grounds, streets, alleys and highways within said city. No such vacation or discontinuance shall be granted or ordered by the city council except upon the petition of one or more residents and freeholders in said city; such petition shall set forth the facts and reasons for such vacation, accompanied by plat of such public grounds, streets, alleys or highways proposed to be vacated, and it shall be verified by the oath of the petitioners. The city council shall thereupon, if they deem it expedient that the matter shall be proceeded with, order the petition to be filed of record with the city clerk who shall give notice by publication in the official paper of the city for four (4) weeks, at least once a week, to the effect that such petition has been filed as aforesaid, and stating in brief its object, and that said petition will be heard and considered by the city council, or a committee appointed by them, on a certain day and place therein specified, not less than ten (10) days from the expiration of said publication. The city council or such committee as may be appointed by them for the purpose, at the time and place appointed, shall investigate and consider the said matter, and shall hear the testimony and evidence on the part of the parties interested. The city council thereupon, after hearing the same, or upon the report of such committee in favor of granting such petition, may by an order passed by a two-thirds ( $\frac{2}{3}$ ) vote of all the members elect, declare such public grounds, streets, alleys or highways vacated, which said order, after the same shall go into effect, shall be published as in case of ordinances, and thereupon a transcript of such order duly certified by the city clerk shall be filed for record and duly recorded in the office of the register of deeds of the county of Freeborn.

SEC. 14. *Appeal, Vacating Street.* Any person feeling aggrieved by any such vacation or discontinuance may, within twenty (20) days after the publication thereof, by notice in writing served on the mayor of said city, a copy whereof with proof of service thereof shall be filed in the office of the clerk of the district court of the

county of Freeborn, appeal to said court from such vacation or discontinuance, where such appeal shall be tried by the court and jury as ordinary cases, and the judgment of which court shall be final. It shall be the duty of the city clerk, as soon as any such appeal is taken, to transmit to the proper court a certified copy of the record of all proceedings in the case at the expense of the appellant. Such appeal shall be entered and brought on for trial and be governed by the same rules in all other respects as appeals from justices of the peace in civil suits, except that no pleadings shall be required.

SEC. 15. *Plat of vacated Streets filed with Register of Deeds.* Whenever any highway, street, alley or public ground is laid out, widened, narrowed or enlarged or any of the same are vacated or discontinued under the provisions of this act the city council shall cause an accurate survey and plat thereof to be made and filed in the office of the register of deeds of Freeborn county, and all streets, highways and alleys heretofore laid out, vacated or discontinued or so intended by the action of the city council of said city are hereby legalized and confirmed.

SEC. 16. *Right of Way over Streets*—The city council shall have the power and authority by a vote of two-thirds of all the members of the city council to grant the right of way upon, over and through any of the public streets, highways, alleys and public grounds of said city to any railway company, or other corporation, upon such limitations and conditions as they may prescribe by ordinance.

## CHAPTER VII.

### FIRE DEPARTMENT.

SECTION 1. *Power to Establish Fire Limits*—The city 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 not fire proof or as dangerous to surrounding property, shall not hereafter be erected, enlarged, placed or repaired, and to direct, that any and all buildings within the limits prescribed, shall hereafter be built and constructed in such a manner and of such materials as in the judgment of the city council shall not be dangerous to surrounding property, and to prohibit the repairing or enlarging or rebuilding of wooden buildings within the fire limits without its consent when the same shall have been damaged by fire or otherwise to the extent of fifty (50) per cent. of the value thereof, and to prescribe the manner of ascertaining such damages. Any building hereafter erected, enlarged, rebuilt, replaced or repaired in violation of the provisions of any ordinance passed pursuant to this act is hereby declared and shall be deemed a public or common nuisance and the city council in addition to other penalties may provide for the abatement of such nuisance. The jurisdiction of the district court of Freeborn county is hereby extended to enjoin and prohibit any threatened or attempted violation of any ordinance passed pursuant to this section, and it shall be deemed adequate ground for the granting of such remedy that any person about to violate any provision of such ordinance notwithstanding the

a penalty be provided in such ordinance for any such violation thereof.

SEC. 2. *Powers of Council to Prevent Fires.* The city council shall have the power by resolution to order any building, structure or materials therefor hereafter erected, or in the 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 the power to prescribe the notice to be given to the owner, occupant or agent to remove such building and materials, and in case the same is not removed in pursuance of the notice given to order the same taken down or removed by the police in such manner as the council may see fit. And the city 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 (100) dollars, which may be imposed by a city justice upon the complaint of any citizen.

SEC. 3. *Further Powers to Prevent Fires.* The city 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 streets and alleys. To require the inhabitants to provide as many fire buckets and in such a manner and time as they shall prescribe and to regulate the use of them in times of fire. To regulate and prevent the carrying on of manufactures dangerous in, causing or promoting fires. 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, councilors, fire wardens or other officers of the city to keep away all idle and suspected persons and to compel all bystanders to aid in the extinguishment of fires and the preservation of property exposed to danger thereat, and generally to establish such regulations for the prevention and extinguishment of fires as the city council may deem expedient.

SEC. 4. *Wooden Sidewalks may be Prohibited.* The city council shall have power to prohibit the construction of wooden sidewalks within the fire limits of said city and to prescribe other material to be used therefor whenever they deem the safety of the city to require it.

SEC. 5. *Fire Apparatus and Companies.* The city council shall have power to purchase fire engines and all other apparatus or material which may be necessary or required for the extinguishment of fires. To erect and maintain fire alarm telegraphs and boxes, to authorize the formation of fire engine, hook and ladder, and hose companies, and to provide for the proper support, compensation 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 such company which may be authorized to be formed shall be exempt from poll tax and from serving on juries during their continuance of such membership, and shall elect their own officers and make their own laws, subject however to the approval of the city council.

SEC. 6. *Chief Engineer and Officers.* The city council shall annually appoint a chief engineer of the fire department of said city to take charge of the same and provide by ordinance for such other officers and men as may be deemed necessary for such department, and define their respective duties and compensation, and make all needful orders and regulations for the government of the whole fire department. The chief engineer shall nominate for the approval of the city council all other officers and men connected with such department and may at any time by and with the consent of the city council remove or discharge such officers or men as he may deem for the interest of the city.

SEC. 7. *Penalty for Refusing to Obey Orders at Fires.* Whenever any person shall refuse to obey any lawful order of any engineer, fire warden or councilor 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 upon conviction before a city justice be punished by a fine not exceeding fifty (50) dollars and costs and prosecution, and to be imprisoned until such fine and costs are paid, not exceeding sixty (60) days. *Provided,* that the officers of said city shall be exempt from the provisions of this section.

SEC. 8. *Fire Marshals and Fire Wardens.* The city council shall have power to appoint a fire marshal of said city and one (1) fire warden for each ward to see that the ordinances of the city relating to precaution against dangers from fires are not violated, and who shall have power and are hereby authorized to enter any dwelling house or other building at all reasonable hours between seven (7) o'clock in the morning and six (6) o'clock in the evening and to examine all chimneys, stoves, furnaces, pipes and other parts of such buildings and see that the ordinances of the city respecting the same are enforced. The city council may require the fire marshal to examine particularly into the cause of every fire which shall happen within the city and make report thereof as the council may require.

## CHAPTER VIII.

### SPECIAL ASSESSMENTS.

SECTION 1. *Authority to Levy.* The municipal corporation of the city of Albert Lea, is hereby authorized to levy assessments for local improvements upon the property fronting upon such improvements or upon such other property to be benefited by such improvements without regard to a cash valuation.

SEC. 2. *Purposes for Which Made.* That such assessments may be made by the city of Albert Lea, for filling, grading, leveling, pav-

ing, sprinkling, curbing, walling, macadamizing, planking, constructing bridges upon or otherwise improving any street, lane, alley or highway, and for keeping the same in repair, for laying out, opening, extending, widening, straightening or altering any street, lane, alley, highway or public ground or procuring grounds for any public building and for planting shade trees upon or otherwise ornamenting the same; also for filling, grading, protecting, ornamenting or otherwise improving any public square, park or grounds now or hereafter laid out, also for constructing, laying, relaying, erecting, cleaning and repairing cross-walks and side-walks, area walls, gutters, sewers, private drains the establishment and extension of water works, and the abatement of any and all public nuisances within said city, and this section shall apply to all cases of appropriation of private property for public use, except as in this act otherwise provided.

SEC. 3. *Improvements how Made.* The cost of any improvements mentioned in the foregoing section shall be defrayed, save as herein otherwise provided, by a special assessment upon the real estate benefited thereby, to be levied in a manner hereinafter described. *Provided*, that all streets, crosswalks and sidewalks, adjacent to public grounds other than streets, lanes or alleys be constructed at the expense of the city at large. *Provided* also that the repairing of any street, alley, highway, public ground, bridge, sewer, drain or the making of any other improvement, the cost of which is estimated not to exceed the sum of one hundred (100) dollars, may be done by the city council of said city without special assessment therefor or reference to the board hereinafter provided for.

SEC. 4. *Board of Public Works, Appointment, Qualification.* Special assessments, except as hereinafter provided, shall be made by a board of public works, who shall be appointed as follows: On the first Monday of May of each year, or as soon as practicable thereafter, the judge of the district court of the judicial district in which said city may be situated, upon the written or verbal application of the mayor of said city, and of which application public notice shall have been given by one publication in the official paper of the city, shall appoint as such board of public works three (3) persons, who shall be each respectable freeholders of said city and qualified electors therein and shall have been residents of said city for at least three (3) years prior to such appointment, and none of whom shall be officers of said city. Such appointment shall be in writing, signed by said judge of the district court, and a certified copy thereof transmitted to and filed by the city clerk of said city, in his office, and shall thereupon become prima facie proof of such appointment and of the regularity of the same. Each of said members of the board of public works shall hold his office for one (1) year and until his successor shall be appointed and qualified, and all vacancies shall be filled by said judge of the district court in like manner as original appointments are above provided to be made; *provided*, that no member of the board of public works shall act in relation to any assessment upon or condemnation of any property in which he has any property interest, but in case of any such member being for any cause disqualified from acting in any case, a member pro tempore may be appointed in like manner as above provided for appointment of said board, to act in place of such dis-

qualified member. Each member before entering upon the discharge of his duties, shall take and subscribe an oath to the effect that he will faithfully and impartially discharge his duty as a member of the board of public works to the best of his ability. Each of said members shall be entitled to receive as compensation for his services, three (3) dollars per day for each day of actual service in the duties of such office, which shall be paid out of the city treasury. Said board of public works shall have power to elect one of their own number as chairman of said board. Meetings of said board may be called by the chairman or by any two (2) members thereof, by personal or written notice to all the members, or left at their respective places of residence, or by notice published in one week in the official paper of said city. The city clerk shall act as clerk of said board, and shall keep a record of all the proceedings of said board, in a book to be kept for that purpose, and report the same to the city council of said city, whenever required. Such records shall be kept in the office of the city clerk, and shall be deemed to be a public record. The city surveyor shall act under the orders of said board, and do all surveying, make all plans and estimates, and perform any such like work as may be required by said board. In case any such member, upon being personally notified of any meeting of said board, shall neglect or refuse to attend, he shall, except in case of sickness or absence from the city, forfeit and pay a fine to said city not exceeding fifty (50) dollars in each case, which shall be recovered in the same manner as is provided for prosecutions for violations of ordinances of said city by the act incorporating the same. Two (2) of said three (3) members shall constitute a quorum, and perform any act and have all the powers of said board of public works.

SEC. 5. *Proceedings for Improvements, how Begun.* Whenever a petition for the making of any improvements mentioned in section two (2) of this act shall be presented to the city council of said city, purporting to be signed by owners of real estate in the vicinity of such proposed improvements and which signers shall in the opinion of such city council, be owners of more than one-half ( $\frac{1}{2}$ ) in area of the real estate which may by said city council be deemed to be especially benefited by such improvements; or whenever without such petition, two-thirds ( $\frac{2}{3}$ ) of all the councilors elect shall vote in favor thereof, the city council shall, except in cases herein otherwise provided, refer the same to the board of public works. The said board shall then proceed to investigate the subject so referred, and may cause such surveys and plats to be made as they may deem necessary and shall make report to the city council and give an estimate of the expense of making such improvement and of the proportion or amount thereof which in their opinion may properly be assessed upon real estate as benefits derived from such improvement, and what proportion or amount should properly be assessed upon or borne by the city at large. They shall also report whether in their opinion the contemplated improvement is desired by the owners of the greater part in area of the property likely to be assessed therefor. If the said board shall not approve of the making of such improvement, they shall in their report to the city council give the reasons for their disapproval and in such case the city council shall not order the prosecution or

making of such improvements except by a vote of two-thirds ( $\frac{2}{3}$ ) of all the members elect of said council. After the report of said board shall have been made to the city council, they may in any respect modify the plan of contemplated improvements; *provided*, that such modification shall not be such as to materially increase the expense or alter the general plan thereof, except upon a vote of two-thirds ( $\frac{2}{3}$ ) of all the councilors. The city council may, for any reason again, or as often as they may deem necessary, refer the subject of any contemplated improvement to said board, to be acted upon by them anew as above provided, or for any other or special purpose they may deem proper.

**SEC. 6. *Report of Action thereon, Contract.*** When the board of public works shall have reported to the city council in relation to any proposed improvement involving the doing of any work or the furnishing of any material the city council may direct the city clerk to advertise for proposals for doing such work or furnishing such materials; a plan and profile of the work to be done accompanied with the specifications for doing the same in all cases where such plan, specifications and profile may be necessary for perfect description of the work to be done being first placed on file in the office of the city clerk, which plans, profiles and specifications shall at all times be open for public inspection. The board of public works may for the sake of convenience or equity in making assessments as hereinafter provided, divide the proposed work and improvements into several divisions or sections and indicate the same in their report to the city council, and in such case the plan, profile and specifications shall correspond as near as may be with and indicate such divisions or sections; bids for doing any work or making any improvements as provided herein shall name a gross sum for the whole work or improvement or some specified division thereof and the contract when awarded shall be for the doing of the work or making the improvement or some specified section, portion or division thereof at a gross sum for the whole or for such specified part thereof; upon being directed to advertise for proposals as above provided the city clerk shall cause an advertisement to be published for at least two (2) weeks in the official paper of the said city, stating briefly in general terms the nature of the work to be done, stating where the plans, profile and specifications may be examined and within what time bids for doing such work will be received; such bids shall be directed to the city council of the city of Albert Lea, and each shall be accompanied by a bond to the said city in a sum equal to thirty (30) per cent. of the amount of the bid as liquidated damages and signed by the bidder and two (2) responsible sureties to the satisfaction of the city council, conditioned that the bidder shall execute the work for the price mentioned in his bid and according to the plans and specifications in case the contract shall be awarded to him, and in case of default on his part to execute the contract and perform the work in accordance with its terms said bond may be sued and judgment recovered thereon by said city for the full amount thereof in any court having jurisdiction of the amount. Said bids shall be opened by the city council at their next meeting after the time for receiving bids shall have expired, or at any other appointed,

regular or special meeting thereafter. Upon the opening of said bids or at any time thereafter the city council may award the doing of the work or any part thereof to the lowest reliable and responsible bidder or bidders who shall have complied with the above requirements. In case any person or persons with whom such contract may have been made, shall fail or neglect to complete the same within the time and in the manner prescribed, the city council of the said city may at any time after such default, in its discretion and at its election, instead of causing action to be brought upon such bond for the recovery of the the amount thereof on account of such default by vote declare such contract forfeited and the city may then complete the work by contract or otherwise and the cost of completing the same shall be considered as forfeited and as liquidated damages between such contractor and said city for such breach of contract, and shall be deducted and withheld from the contract price which such contractor was to have received for the doing of the whole of such work.

SEC. 7. *Condition of Contracts.* Any contractor or person who enters into a contract for the doing of any work or making any improvement provided for in this act shall take contract with the condition that he and the sureties upon his bond shall be personally and directly responsible for any and all loss, damage or injury to persons or property by reason of the neglect or failure of himself or any one in his employ to so perform such work as to guard against all loss, damage and injury to person or property, and he shall so guard the said work by suitable guards by day and with lights at night as to prevent any such loss, damage or injury. The provisions of this section shall be regarded as forming a part of the contract entered into by any person with the city.

SEC. 8. *Damages to be Assessed.* When the board of public works shall have reported to the city council in relation to any proposed improvement which shall require the appropriation or condemnation of any land or real estate and the city council shall direct the further prosecution of such improvement the said board of public works shall thereupon proceed in the manner hereinafter prescribed to ascertain and assess the damages to the owner of such land for such appropriation or condemnation and to assess upon the real estate by them determined to be especially benefited by the making of such improvement, such damages and the cost of making such improvements to the extent of the special benefits deemed to be derived by such real estate therefrom.

SEC. 9. *Damages how Assessed.* The said board of public works in making such assessment of damages shall determine and appraise to the owner or owners the value of the real estate appropriated for the improvements and the injury to them respectively arising from the condemnation thereof, which shall be awarded to such owners respectively as damages after making due allowances therefrom for any benefits which such owners may respectively derive from such improvement. If the damages to any property be greater than the benefit received or if the benefit is greater than the damage, and in any case when both damages and benefits are to be assessed, the said board of public works shall strike a balance and carry forward the difference so that the assessment may show what amount is to be re-

ceived or paid by such owners respectively, and only such difference shall in any case be collected or paid to them as the case may be.

SEC. 10. *Buildings may be Removed.* If there should be any buildings standing in whole or in part upon the land to be taken the said board of public works shall add to their estimate of damages for the land the damages also for the building or part of building necessary to be taken, if it be the property of the owner of the land. When owned by any other person the damages for the building shall be assessed separately. The value of such building to the owner to remove or of the part thereof necessary to be taken shall also be determined by the said board of public works and notice of such determination shall be given to the owner when known, if a resident of the city or at his usual place of business or abode. If the owner is not known or is a non-resident of the city notice to all persons interested shall be given by publication for two (2) weeks in the official paper of the city. Such person may at any time within twenty (20) days after service or the first publication of such notice notify the board of public works in writing of his election to take such building or part of building at their appraisal and in such case the amount of such appraisal shall be deducted by the board of public works from the estimate of damages for the land and building where they belong to the owner, and from the estimate of damages for the building where they belong to different owners, and the owner shall have reasonable time for the removal of the building after the confirmation of the assessment as the board of public works may allow. If the owner shall refuse to take the building at the appraisal or fail to give notice of his election as aforesaid, then no such deduction shall be made from the estimate of damages aforesaid, and after the confirmation of such assessment of damages for the taking of such property and after provision shall have been made for the payment of the same as hereinafter provided such building or so much thereof as may be necessary may then be taken and appropriated, sold or disposed of in such manner as the city council shall direct and the same or the proceeds thereof shall belong to the city.

SEC. 11. *Property Benefited and Damaged.* When any contract for the doing of any work or the making of any improvement as herein provided shall have been made or awarded by said city council, or when the damage to be paid for the appropriation or condemnation of any property in pursuance of the provisions of this act shall have been ascertained and determined by the board of public works and confirmed by the city council, or in case an appeal shall be taken as provided in this act, then when such damages shall have been determined by the judgment of the court the said board of public works shall thereupon proceed to assess in the manner hereinafter provided upon the real property by them deemed to be especially benefited by the doing of the work or the making of the improvement in proportion as nearly as may be to the benefits resulting thereto the amount for which any such contract may have been awarded or let or the amount of damages so ascertained and determined, as the case may be, to the extent of the special benefit deemed to be derived by such real estate therefrom. The balance of the amount for which such contract may have been awarded or let or of the damage for the taking

of any property so ascertained and determined shall be chargeable upon and paid by the city at large.

**SEC. 12. *Notice, how Given.*** Before proceeding to make such assessment of benefits to be derived from any improvement or of damages for the taking of any property as hereinbefore provided, said board of public works shall cause notice to be given by publication in the official paper of said city for at least two (2) weeks, of the time and place of their meeting for the purpose of making such assessments, which notice shall specify in general terms the object of such assessment; *Provided*, that in case any such improvement consists in or includes the taking or appropriating of any land or property, written notice of the meeting of such board of public works for the purpose of determining the damages to be awarded to the owner of such property for such taking, shall be served at least one (1) week before such meeting, by the chief of police or any police officer of said city upon the person whose property is to be so condemned; if such person is known and is a resident of said city such notices shall be served by delivering the same to the person to be served, personally or by leaving the same at the usual place of abode of such person with some person of suitable age and discretion therein residing. If the owner of such property is unknown or is a non-resident of said city or is absent therefrom and has no place of residence therein where service can be made in the manner above provided, of which facts the return of the chief police of said city shall be conclusive evidence, notice of such meeting shall be published as hereinbefore in this section provided. All persons interested in any such assessment shall have the right to be present and be heard either in person or by attorney. The board of public works shall visit the locality of the contemplated improvement and shall receive any legal evidence that may be offered relative to the matters to be determined by them and hereby authorized to administer oaths to all witnesses produced before them. They shall permit the city attorney or the city council to appear before them at such hearing to represent the interests of the city. They may adjourn from time to time and from place to place until such assessment shall be completed. The action or determination of any two (2) of said members of the board of public works shall be binding as the act of said board.

**SEC. 13. *Completion of Assessment and Confirmation.*** When such assessment of damages or of benefits shall have been completed, the board of public works shall cause the same to be entered in a book to be kept for that purpose by the clerk of said board. After the same is so entered, said board shall cause notice to be given by at least one (1) weeks publication in the official paper of said city, that such assessment has been completed and entered as aforesaid and that at a time specified in such notice application will be made to the city council for a confirmation of the same. Objections to said assessments may be heard before the city council at such time. *Provided* that all such objections shall be in writing, and shall be filed in the office of the city clerk at least one (1) day prior to such meeting of the city council. Should no quorum be present at such appointed meeting of the city council, such meeting for confirmation may be adjourned by the members of said council present, to such other time

as they may deem expedient; and at such adjourned time without further notice or publication, the city council may act in reference to such assessment in the same manner and with the same authority as they might have done at the meeting appointed for that purpose had a quorum been present. *Provided*, that nothing herein contained shall preclude said board of public works from causing a new notice of application for confirmation to be given by publication in the manner above provided, in case any previous notice shall be found irregular or invalid, or in case of there being no quorum present at any prior meeting or for any other cause preventing a regular and valid action by the city council in relation to such assessments; the council shall have power to adjourn such hearing from time to time and shall have power in their discretion, to revise and correct the assessment and to confirm the same in whole or in part, and to annul the same in whole or in part and to direct a new assessment to be made. Said assessment when confirmed by the city council or the same is corrected by said city council, without further action thereon by the board of public works or formal confirmation by the city council, shall be final and conclusive upon all parties interested therein, except as hereinafter provided. If said assessment shall be annulled by the city council or set aside by any court in whole or in part the board of public works shall proceed to make a new assessment in place of so much of the former assessment as may have been annulled or set aside and return the same in like manner and give like notices as hereinbefore provided, and all parties in interest shall have the like rights and the city council shall perform the like duties and have like powers in relation to any subsequent assessment or determination as are hereby given in relation to the first.

SEC. 14. *Appeal how Taken.* Any person whose property has been appropriated and has filed objections to the assessment of damages therefor as hereinbefore provided shall have the right at any time within ten (10) days after the confirmation of such assessment to appeal to the district court of the county of Freeborn from such confirmation of such assessment. Said appeal shall be made by filing a written notice with the city clerk containing a description of the property of such appellant so appropriated and the objections of such appellant to such assessment and by filing with the clerk of said court a bond to the city of Albert Lea conditioned to pay all costs which may be awarded against the appellant, which bond shall be in such sum and with such sureties as shall be approved by the judge of said court, or in case of his inability to act, by the judge of any court of record in this state. A copy of such notice of appeal with the date of filing the same certified by the city clerk shall also be filed with the clerk of said court within the time above limited for perfecting such appeal. A copy of the record of such assessment as confirmed as provided in section thirteen (13) of this act, and of the objections as aforesaid, made to the confirmation thereof certified by the city clerk at the expense of the appellant shall be filed with the clerk of said court at the time of taking such appeal. Such appeal shall be entitled in said court in the name of the person taking the same against the city of Albert Lea as an appeal from assessment.

SEC. 15. *Issue and How Tried.* Such cause shall then be deemed

to be at issue in said court and shall have the preference in order of trial over all other civil actions pending in said court. Such appeal shall be tried in said district court as all other civil actions except that no pleadings shall be required, and on the trial the only question to be passed upon shall be whether the assessment of damages so far as it affects said property is fair and impartial. And if found not the damages for the taking of the property specified in the objections shall be reassessed by the court or jury, but such reassessment shall be so far as practicable in accordance with the same rules and principles herein prescribed in reference to the assessment by the board of public works. Judgment thereupon shall be entered to the effect that upon the amount of damages so determined being paid or secured in accordance with the provisions of this act the city shall have the right to take, use and appropriate the property in question for the purposes for which the same was sought to be taken and from which judgment no appeal or writ of error shall lie, and if the court shall be of the opinion that such appeal was frivolous or vexatious it may adjudge costs against said appellant in a sum not exceeding thirty-five (\$35.00) dollars in addition to all taxable costs.

SEC. 16. *Assessment Confirmed, Proceedings thereafter.* When such assessment shall have been confirmed by the city council and no appeal have been taken, or if an appeal shall have been taken when judgment shall have been rendered therein, the same shall be a lawful and sufficient condemnation of the lands or property to be appropriated; and whenever there shall have been appropriated by the city council from money actually in the hands of the treasurer of said city, the amount of damages assessed for the taking of the same, and orders upon the treasurer for such amounts in favor of the person entitled thereto shall have been drawn and signed, and delivered or tendered to the person entitled to such damages, or whenever, instead of such delivery or tender, such orders shall have been deposited with the city clerk for the use of such person and to be delivered to him or them, upon demand, then the said city may enter upon and appropriate such property to the uses for which the same was condemned. Whenever, in any case, the city shall be unable to determine to whom the damages awarded should be paid, or in case of disputed claims in relation thereto, the amount thereof may be deposited by order of the city council, in the district court for Freeborn county, in the same manner as moneys are paid into court until claimants and parties shall substantiate their claims thereto, and such payment into court shall be deemed, so far as the city is concerned, as a payment of the same to the person or persons entitled thereto, and the city shall be thereafter discharged from all further liability in respect thereto, and it may enter upon and appropriate the property for the taking of which such damages were assessed.

SEC. 17. *Sidewalks how Maintained.* All owners of real estate in front of, adjacent to or upon which the city council shall order or direct any sidewalk to be constructed, relaid or repaired, shall construct, relay or repair such sidewalk at their own cost and charge, in the same manner and within the time prescribed by said city council in a notice served as hereinafter provided. Whenever said city council shall order any such work to be done, and shall by ordinance or

otherwise prescribe the manner of constructing such work, or shall have before done so, they shall cause a notice to be given, by personal service upon the owner of such real estate, or by leaving the same at his usual place of abode or with some person of suitable age and discretion, or by publishing the same once in the official paper of said city; such notice 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 in said notice or by reference to any ordinance or resolution of said city council then or theretofore published. Such notice shall state upon what lot or tract of land 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 therein. No reference to the board of public works need be made before the ordering of such work. If the work be not done in the manner and within the time so prescribed by the city council the council may proceed to do the work by contract or otherwise. When to be done by contract they shall cause advertisements for proposals for doing such work to be made, as provided in section six (6) of this act; but no plans, profile or specifications of such work need be made or filed, as therein provided, but the terms upon which the work is to be done, the manner of doing the same and any necessary particulars or specifications may be stated in said advertisement, in terms or by reference to any ordinance, resolution or notice of the city council then or theretofore published, designating the same by its title and date, or the date of publication or of the approval thereof by the mayor or acting mayor of said city; *provided*, that the bids for constructing sidewalks, and contracts made thereon, may state the price for doing any work at a gross sum for any lot or tract of land or part thereof adjacent to or upon which the same is to be done, or it may be at a certain sum per lineal foot, or other unit of measurement.

SEC. 18. *Repair of Sidewalks.* If the owner of any lot or parcel of land shall suffer any sidewalk along the same to become broken, rotten or out of repair it shall be the duty of the street commissioner to immediately repair the same in a good, substantial and thorough manner and to report to the city council the cost of such repairs in each case and a description of the lot or parcel of land abutting which such repairs are made and such report shall be kept and filed and preserved by the city clerk and the city council shall once in each year at or as near as conveniently may be the time of levying the yearly city taxes assess and levy in the manner provided for in this chapter upon each of the lots and parcels of land fronting or abutting upon sidewalks which have been repaired by the street commissioner the costs of making such repairs. In each case such assessment for all such repairs within the year may be combined in one assessment roll and be collected as provided for in this act. In case any such sidewalk shall become so out of repair as to become dangerous and cannot be made safe without being rebuilt and there are no funds to defray the expense of such rebuilding it shall be the duty of the street commissioner to remove the same entirely and the expense of such removal shall be added to the cost of rebuilding where the same shall be

reconstructed, and collected with the assessment for such reconstruction.

SEC. 19. *Assessments for Sidewalks*—After the letting or awarding of the contract for constructing, relaying or repairing any sidewalk as herein provided or whenever the same otherwise shall have been done the board of public works shall proceed to assess upon the real property in front of, adjacent to or upon which such sidewalk is to be or may have been constructed, relaid or repaired, the cost of such relaying, repairing or constructing as determined by the contract so let or awarded, or as the same appears by the report of the street commissioner who may have repaired any sidewalk. No previous notice of such assessment by the said board of public works need be given nor shall they be required to view the premises upon which such improvement is to be or has been made or to hear any testimony, evidence or objections relating to such assessment. The same proceedings shall be had in regard to the entering of said assessment, and in respect to the review or confirmation thereof by the city council as are provided in section thirteen (13) of this act, and all the provisions of said section thirteen (13) except as herein otherwise provided shall apply to the proceedings had under this section.

SEC. 20. *Collection of Assessments*. When any special assessment for any of the improvements in this act mentioned shall have been confirmed by the city council or corrected and determined by the said council it shall be the duty of the city clerk to issue to the treasurer of said city a warrant for the collection thereof which shall be under the corporate seal and signed by the mayor or acting mayor of said city and the city clerk, and shall contain a copy of the assessment as confirmed by the city council or as corrected and determined by them or so much thereof as describes the real estate assessed and the amount of assessments in each case. Any such warrant may contain copies of several assessments for any improvements made or to be made in pursuance of this act, and the same proceedings may be had for the collection of all assessments charged therein as are herein provided in relation to any one of such assessments.

SEC. 21. *Duties of City Treasurer therein*. All warrants issued for the collection of special assessments shall be delivered by the city clerk to the city treasurer for collection. The city treasurer shall, when he shall have completed the proceedings incumbent upon him in respect thereto, return said warrant to the city council accompanied with a written return executed by him of his proceedings thereunder. Upon the receipt of any such warrant the city treasurer shall, by publication in the official paper of said city for at least two (2) weeks, give notice that such warrant is in his hands for collection, briefly designating the improvement on account of which such assessment was made, and requesting all persons interested to make payment at a place therein designated within thirty days after the publication of said notice.

SEC. 22. *Assessment; Payment in Part*. When any lot or tract of land upon which any assessment may have been made in pursuance of the provisions of this act, shall be owned by more than one person as tenants in common, it shall be lawful for any one or more of such tenants in common to pay such proportion of the whole assessment

upon such lot or tract, as his undivided interest in such lands bears to the whole thereof, which payment shall discharge such undivided portion of such land from such assessment, leaving the balance of such assessment to attach to the remaining undivided portion or portions of such land; and in respect to such unpaid balance of assessment and such remaining undivided portion or portions of such lands, all of the provisions of this act shall so far as applicable be construed to apply.

SEC. 23. *Delinquent Assessments.* If the assessments charged in any such warrant shall not be paid within thirty (30) days after the first publication of such notice of the city treasurer, all such assessments then unpaid shall from and after the expiration of such time be delinquent and subject to a penalty of twenty (20) per cent, which shall then be added thereto as a part thereof and collected in like manner as provided for the collection of said original assessments, and from thenceforth without any further act or thing be a lien upon the real estate upon which the same may have been assessed, which lien shall continue until such assessments shall have been paid, and the city council shall proceed to levy such assessments upon the several parcels of land described in said warrant in accordance with the assessment so confirmed and cause to be made out and adopted assessment rolls of the same, which may be in the following or any other form which the city council may deem proper:

SEC. 24. *Assessment Rolls.* Assessment rolls for improvements of all kinds or interference with private property may be in the following form or in such form as the council may direct:

The city council of the city of Albert Lea doth hereby assess and levy upon and against the several lots and parcels of land below described the respective sums of money set against and opposite each lot or parcel. This assessment is levied to defray the compensation and damages awarded for the taking and injury to private property and costs of improvements in and about the.....in the city of Albert Lea as shown by the plat and survey of the same now on file in the office of the city clerk of said city. This levy is made conformably to the report and assessment of the board of public works duly appointed to make such assessment and in proportion to the benefits accruing from such improvements to the parcels, and not exceeding the benefits, to the parcels so assessed:

Owner's Name if known.	Description.	Lot.	Block.	Amount.		Remarks.
				Dols.	Cents.	

Done at a meeting of the city council this.....day of.....A. D. 18..

Attest, .....  
 (L. S                      City Clerk.                      President of the Council.

SEC. 25. *Assessment Rolls for Sidewalks.* Assessment rolls for constructing or reconstructing sidewalks may be in the following form:

The city council of the city of Albert Lea doth hereby assess and levy upon and against the several lots and parcels of land below described the respective sums of money set against each lot or parcel. This assessment is made to defray the cost of..... a sidewalk along the..... side of..... from..... to..... in accordance with a resolution of the city council passed on the..... day of..... A. D. 188.. and duly published in the official paper of said city on the..... day of..... A. D. 188..

The amount assessed against and levied upon each lot or parcel being the amount necessary to build such sidewalk along and fronting upon the same lot or parcel of land.

Owner's Name if known.	Description of Land.	Lot.	Block.	Amount		Remarks.
				Dols.	Cents.	

Done at a meeting of the city council this.....day of  
.....A. D. 18..

Attest:

.....  
President of the Council.

(L. S.)

City Clerk.

SEC. 26. *Assessment Rolls; Repair of Sidewalks.* Assessment rolls for repair of sidewalks may be in the following form:

The city council of the city of Albert Lea doth hereby assess and levy upon and against the several lots and parcels of land below described the respective sums of money set against each lot or parcel of land. The assessment is made to defray the cost of repair of sidewalks fronting upon each parcel or lot which the respective owners have neglected to make and which have been made by the street commissioner since the.....day of..... A. D. 18.... The amount assessed against and levied upon each of said lots and parcels is the actual cost of the repairs of sidewalks abutting upon such lots or parcels so repaired by such commissioner.

Owner's Name if known.	Description.	Lot.	Block.	Amount.		Remarks.
				Dols.	Cents.	

Done at a meeting of the city council this.....day of.....  
 .....A. D. 18....

Attest: .....  
 ..... President of the Council.

(L. s.) City Clerk.

SEC. 27. *Assessment Rolls; Street Sprinkling.* Assessment rolls for sprinkling the streets may be in the following form or any other form which the city council may adopt:

The City Council of the City of Albert Lea doth hereby assess and levy upon and against the several lots and parcels of land below described and the buildings and improvements thereon the respective sums of money set opposite each lot or parcel. This assessment is levied to defray the expense of sprinkling the streets fronting the said lots and parcels of land from.....A. D. 18...., to.....A. D. 18...., according to a contract for sprinkling.....from.....to..... and said lots and parcels of land, buildings and improvements are assessed by an equal rate upon the assessed value of the lots, lands, buildings and improvements on the portion of the street so sprinkled.

Owner's Name if known.	Description of land.	Lot.	Block.	Amount.		Remarks.
				Dols.	Cents.	

Done at a meeting of the city council this.....day  
 of.....A. D. 18....

Attest: .....  
 ..... President of the Council.

(L. s.) City Clerk.

SEC. 28. *Record of Assessment Rolls.* The city clerk shall record all assessment rolls of special assessments in books kept by him for that purpose and shall on or before the first (1st) Monday in October of each year deliver to the county auditor of Freeborn county all such assessment rolls theretofore recorded and such county auditor shall extend the assessments in proper columns against the property assessed and such assessment shall be collected and the payment thereof enforced as any county and state taxes are collected and enforced, and such assessments shall be paid over by the county treasurer when collected, to the city treasurer in like manner as other taxes.

SEC. 29. *Validity of Assessments not Questioned.* No omission, informality or irregularity in proceedings in or preliminary to the making of any special assessment shall affect the validity of the same when the assessment roll has been adopted by the city council, and

the assessment roll and the record thereof kept by the city clerk shall be competent and sufficient evidence that such assessment was duly levied and that such assessment roll was duly made and adopted, and that all other proceedings were duly had, taken and performed as required by this charter, and no failure of the city clerk to record the said assessment roll or to return the same to the county auditor on or before the time prescribed for such delivery, or to do any other act or thing required of him shall in any way invalidate such assessment, and no variance from the directions herein contained as to form or manner of proceedings shall be held material unless it be clearly shown that the party objecting was materially injured thereby, nor unless such objections were taken at the time and in the manner prescribed in this chapter.

SEC. 30. *Proceedings when Questioned.* In case any special assessment shall in any suit wherein its validity shall be questioned be adjudged invalid by the court the city council may in its discretion notify the county auditor to cease the collection of the same if it shall have been transmitted to him for collection and may proceed anew by proceedings either as in case of an original special assessment for the same purpose or by taking up the previous proceedings at any point and may make and levy a new assessment in place and stead of the assessment which shall have been adjudged invalid. The city clerk before delivering such new assessment to the county auditor shall ascertain and note thereon payments which have been made on such invalid assessment for the same purpose, which notations shall cancel the assessment as to the lots and parcels on which payments were made to the extent of such payments. Such new assessments shall be collected in the same manner as the original special assessments.

SEC. 31 *Excess of Amount of Assessment.* No special assessment shall be held to be invalid because the amount of such special assessment shall happen to be more or less than the amount of money actually required for the improvements for which such assessment was made. If the special assessment should happen to be less than the amount required the balance shall be paid from the current fund of the city, except in case of sewers the balance shall be paid from the permanent improvement fund, and if there should happen to be a surplus of such assessment the surplus shall be credited to the same fund from which the deficiency would have been supplied or be otherwise disposed of as the city council shall deem most just toward the person upon whom the special assessment was levied, and upon any assessment roll or other papers being used in any of the proceedings it shall not be necessary that words be written out in full but abbreviations, letters, figures and other characters may be used whenever their use shall be convenient and no error or mistake as to the name of the owner of any property shall be regarded as material in any proceedings under this act.

SEC. 32. *Payment Before Delivery to Auditor.* After any special assessment roll shall have been made and adopted by the city council and before the same has been delivered to the county auditor for collection any assessment thereon may be paid direct to the city treasurer of the city and upon the production of the city treasurers' receipt

therefor to the city clerk he shall enter upon the said assessment roll opposite the assessment so paid the words "paid to the city treasurer," which entry shall cancel the assessment so paid. In case interest shall have been included in such assessment so much of such interest as shall not have accrued on such assessment at the time of such payment shall be deducted thereon.

SEC. 33. *Payments how Applied.* In case any assessment is collected before making any such improvement the money so held shall be kept separate from the funds of the city and not to be devoted to any other purpose than such improvement, and when all the means therefor shall have been collected the city council shall forthwith cause such improvements to be made.

SEC. 34. *Costs of Improvements how Advanced.* The city council may at the time of ordering any improvements for which any assessment may be made determine whether to proceed at once with such improvements or await the collection of such assessment. In case it shall determine to proceed with such improvements the money to defray the expenses thereof shall be advanced out of the permanent improvement fund of the city, or any other fund provided by law therefor. In such case there shall be added to the cost of such improvements interest at the rate of seven (7) per cent per annum from the time of making such determination until the 31st day of May next ensuing when the taxes therefor would be paid and such interest shall be included in the assessment roll by the proper officers and be collected as part of the cost of such improvements."

SEC. 35. *Effect of Prior Assessments.* Nothing herein contained shall intercept or interfere with any assessments which have been heretofore made but the collection thereof shall go on according to the provisions of the charter in force at the time of making such assessments.

SEC. 36. *Records of Board of Public Works.* The proceedings of the board of public works in carrying out the provisions of this act shall be recorded in a book or books kept for that purpose. Such books and the official files and papers of said board shall be deemed public records and copies thereof certified by the clerk of said board with the corporate seal of the city attached shall be evidence in all courts the same as such original records. The clerk of said board shall be entitled to receive from any private person for any certified copy of such records the same fees as are received for like services by the clerk of the district court of Freeborn county.

SEC. 37. *Notices may be Consolidated.* Two or more of the notices required or authorized by this act to be given by the board of public works, the city clerk or the city council, by publishing or otherwise in pursuance of the provisions of this act, may be comprised in one; *provided*, that such notices are of the same general character or for like objects, and that in other respects the notice shall sufficiently comply with the essential statutory requirements. The provisions of this section shall extend to and embrace all notices required to be given in the official paper of the city by the city treasurer of the delivery to him of all tax and special assessments, warrants for collection and of subsequent proceedings or requirements in relation hereto.

SEC. 38. *Change in Officers.* Any change made in the incumbent of the office of the city treasurer or of any other officer of said city during the pendency of any proceedings under this act shall not operate to effect or delay the same, but the successor or successors of such officer or officers shall be authorized to do all acts necessary to complete such proceedings the same as if their predecessor or predecessors had remained in office, and any proceedings may be completed or acted on in pursuance of the provisions of this act, or by any officer after the expiration of his term of office with the same validity as if he had continued in such office.

SEC. 39. *Change in Official Paper.* Any change made in the official paper of said city during the pendency of any publication of any notice or proceeding under this act or the substitution of any other paper as the official paper of said city shall not invalidate any publication or proceeding, but the same may be completed in all respects as though no such change or substitution had been made.

SEC. 40. *Owner's Name not Essential.* In none of the notices, orders, warrants or records of the proceedings prescribed by this act relating to assessments of benefits for improvements made need the name of the owner of the land upon which such assessments are made be given, and no error or irregularity in any notice, order, assessment or proceeding of any kind had in pursuance of the provisions of this act, or any omission of the requirements thereof shall invalidate the proceedings or cause the same to be held illegal unless it shall be made to appear affirmatively that such error, irregularity or omission actually prejudiced the right and affected the interests of the parties interested therein.

SEC. 41. *Effect of Mistakes.* No error, irregularity or invalidity in respect to any assessment upon any one or more of several lots or tracts of land, or of the proceedings in relation thereto, shall invalidate or make illegal the proceedings or assessments in respect to any other lands than those in the immediate respect to which such irregularity or error was made. No extension of time for the doing of any work contracted for or any other change in respect to such contract not materially affecting the property rights of the person complaining of or pleading such change shall invalidate any proceeding or assessment had or made under this act.

SEC. 42. *Effect of Stay in Proceedings.* No suspension or stay of proceedings by appeal or otherwise in respect to any assessment upon or proceedings for the condemnation of any particular property shall stay or suspend any proceedings under this act in respect to any other property, nor shall the annulling or setting aside of any such assessment or proceeding in respect to any particular tract or tracts of land invalidate or in any manner affect assessments upon or any proceedings in respect to any other tract.

SEC. 43. *Delay in Proceedings How Avoided.* Whenever it shall be deemed necessary to take private property for public use without the delay incident to the proceedings therefor in this act prescribed the same may be done upon there having been, first, executed and deposited with the clerk of the district court for Freeborn county the bond of the city of Albert Lea to the owner or owners of such property to be approved by the judge of said court and in such sum as he

may prescribe, conditioned that the city will pay all damages that shall be awarded for the taking of such property, and all costs that be adjudged to such owner or owners in any court having jurisdiction in the premises. *Provided*, that proceedings shall be forthwith taken in pursuance of the provisions of this act to determine the amount of damages to which such owner or owners may be entitled for such taking. The city may thereupon enter upon and use the property in the same manner as they might if the damages for the taking had already been ascertained and paid or secured to be paid.

## CHAPTER IX.

### MISCELLANEOUS PROVISIONS.

SECTION. 1. *Reconsideration of Vote.* No vote of the city council shall be reconsidered or rescinded at a subsequent meeting, unless at such meeting there be present as large a number of councilors as were present when the vote was taken.

SEC. 2. *Penalty in Favor of City how Remitted.* No penalty or judgment recovered in favor of the city shall be remitted or discharged except by a vote of two-thirds ( $\frac{2}{3}$ ) of all the councilors elect, but nothing contained in this section shall be construed to prohibit any city justice from reversing or reducing any penalty or judgment so rendered by him, nor to prohibit said court from suspending execution of sentence in its discretion.

SEC. 3. *Inhabitants not Incompetent as Jurors, etc.* No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant of said city, in any proceedings or action in which the city shall be a party in interest.

SEC. 4. *Actions to be in Name of City.* All actions brought to recover any penalty or forfeiture under this act or the ordinances, by-laws, police or health regulations made in pursuance thereof shall be brought in the corporate name of the city.

SEC. 5. *Prosecutions how Instituted.* 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, ordinance or by-law of the city, 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 a city justice for the violation of any ordinance or by-law of said city may be directed to the chief of police or any police officer of said city, or as generally directed under the laws of this state, but may be served by any person authorized by law to serve process in this county.

SEC. 6. *Imprisonment when Allowed.* In all cases of the imposition of any fine or penalty, or of the rendering of any judgment by a city justice of said city, pursuant to any statute of the state of Minnesota, or pursuant to any ordinance or by-law of the city as a punishment for any offense or for the violation of any ordinance or by-law as aforesaid, the offender shall forthwith be committed to the city prison of said city, or if there be no city prison to the

common jail of the county, and be there imprisoned for a term of not exceeding three (3) months, in the discretion of the city justice, and under such further restrictions and prohibitions contained in this act, unless the said fine or penalty be sooner paid or satisfied; and from the time of arrest of any person or persons for any offense whatsoever 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.

SEC. 7. *Process how Served against City.* When any suit or action shall be commenced against said city all and every process and notice whatever affecting said city shall be served upon the mayor or in his absence upon the president of the council, and in the absence of both of these officers upon the city clerk, or by leaving a certified copy thereof at the office of said clerk, and it shall be the duty of the officer so served to forthwith inform the city council thereof and take such other proceedings as by ordinances or resolutions said council may provide.

SEC. 8. *Charter not Repealed by State Law.* No law of this state concerning the provisions of this act shall be considered as repealing, amending or modifying the same unless said purpose be expressly set forth in such law.

SEC. 9. *City not Liable for Board of Prisoners in State Cases.* The city of Albert Lea shall not be liable in any case for the board or jail fees of any person who may be committed by any officer of the city or any magistrate to the jail of Freeborn county for any offense punishable under the state law.

SEC. 10. *Accounts and Demands Against City how Paid.* No account or demand against said city shall be paid until it has been audited and allowed and an order drawn on the treasurer therefor. Every such account shall be made out in items and verified by affidavit, endorsed or annexed, that the same is just and correct and no part thereof paid. That no action or proceeding shall be commenced, instituted or maintained on any such claim, debt or demand until the same has been verified and presented as herein provided. After auditing the same the president of the council shall cause to be endorsed by the city clerk over his own hand on each account the word "allowed" or "disallowed", as the fact may be, adding the amount allowed, as the case may be, if any, and specifying the items or parts of items disallowed, if disallowed in part only. The minutes of the proceedings of the council shall show the amount allowed. Every such account or demand allowed in whole or in part shall, with the affidavit thereto, be filed by the city clerk and those of each year filed and consecutively numbered and have endorsed thereon the number of the order on the treasurer issued in payment therefor, and the city clerk shall take a receipt on the stub of the order, or otherwise, for such order.

SEC. 11. *Charter to be Public Law.* This act is hereby declared to be a public act, and may be read in evidence in all courts in this state and need not be pleaded or proven.

SEC. 12. *Ordinances to Remain in Force.* All ordinances, by-laws, rules, regulations and resolutions made and established by the

council of said city, shall be and remain in full force and effect until the same shall have been altered, modified or repealed.

SEC. 13. *Repealing Clause.* All acts and parts of acts heretofore passed for the incorporation of the city of Albert Lea, and amendatory thereof not contained in or incorporated herein, and all acts inconsistent with this act are hereby repealed; but the repeal of any and all such acts or parts of acts shall not in any manner affect, injure or invalidate any bonds, contracts, suits, claims or demands that may have been duly and lawfully issued, entered into, commenced, or that may exist under and by virtue or in pursuance of the said acts or any of them, but the same shall exist, be enforced and carried out as fully and effectually to all intents and purposes as if this act had not been passed.

SEC. 14. *Compilation of Charter and Ordinances.* The city council may from time to time provide for the compilation and publication of the charter and ordinances of the city and such resolutions and other matter as may be designated, and for the distribution or sale of copies of such compilation in its discretion, and may also provide for the exchange of such printed compilations for similar publications of other cities.

SEC. 15. *Act to Take Effect.* This act shall take effect and be in force from and after its passage.

Approved April 8th, 1889.

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## CHAPTER 11.

[H. F. No. 504.]

AN ACT TO REDUCE THE LAW INCORPORATING THE CITY OF BRAINERD, IN THE COUNTY OF CROW WING, AND STATE OF MINNESOTA, AND THE SEVERAL ACTS AMENDATORY THEREOF, INTO ONE ACT AND TO AMEND THE SAME.

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

That the acts of the legislature of this state incorporating the city of Brainerd, and the several acts and parts of acts amendatory thereof, be and the same are hereby amended, consolidated, and incorporated into one act as follows:

### TITLE I.

SECTION 1. All that district of country in the county of Crow Wing contained within the limits and boundaries hereinafter described, shall be a city by the name of Brainerd, and all the people now inhabiting and those who shall hereafter inhabit the same district, shall be a municipal corporation by the name of "The City of