

eighty-one (1881) as amended by chapter seven (7) of the special laws of said state for the year one thousand eight hundred and eighty-three (1883), as amended by chapter four (4) of the special laws of said state for the year one thousand eight hundred and eighty-five (1885), as created a board of water commissioners of the city of Minneapolis, is hereby repealed, and said board is hereby discontinued and dissolved, and all property within its possession shall be at once turned over to the city council of the city of Minneapolis.

SEC. 2. All the rights, powers, duties and privileges heretofore conferred upon or vested in said board of water commissioners of the city of Minneapolis, by the charter of said city, are hereby conferred upon and vested in the city council of said city of Minneapolis, and all contracts entered into by said board, and now in force, shall remain valid contracts against said city, and said council shall take the place of said board of water commissioners in said contracts, and shall enforce and be responsible for the same in all respects as said board would had it continued to exist; *Provided*, That the water works fund created and provided for by said sections above designated, shall continue and remain a separate fund of said city, but under the control of the city council of said city, the same as it has heretofore been under the control of the said board of water commissioners of said city.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 3d, 187.

CHAPTER 24.

(S. F. No. 390.)

AN ACT TO AMEND AND CONSOLIDATE THE CHARTER OF THE CITY OF AUSTIN.

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

SECTION 1. The act entitled "An act to incorporate the city of Austin" in Mower county, Minnesota, passed and approved February 28, 1876, as amended February 12th and March 12th, 1878, March 6th and 11th, 1879, and February 14th and 28th, 1881, are hereby amended and consolidated, so that the same shall constitute the charter of the city of Austin, which shall read as follows:

CHAPTER I.

SECTION 1. All that part of the county of Mower, state of Minnesota, within the limits and boundaries hereinafter described, shall be a city by the name of Austin, and the people now inhabiting, and those who shall hereafter inhabit within the district of country herein described, shall be a municipal corporation by the name of the "City of Austin," shall have the general powers possessed by munic-

ipal corporations at common law, and in addition thereto shall possess the powers hereinafter especially granted. And the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded in all courts of law and equity, and shall have a common seal, and may change and alter the same at pleasure, and may take, hold and purchase, lease and convey such real, personal and mixed estate as the purposes of the corporation may require within or without the limits of the city.

SEC. 2. All that district of country and territory in the county of Mower in this state, contained in the limits and boundaries hereinafter described, shall constitute the city of Austin, viz: All of section three [3] lying north and west of the Cedar river; also the north half of section two [2] lying north and west of Dobbins' Creek; also the north half of the southwest quarter [$\frac{1}{4}$] of section two [2]; and all that part of the southwest quarter [$\frac{1}{4}$] of the southwest quarter [$\frac{1}{4}$] of section two [2] lying north and west of the Cedar river; and the northeast quarter [$\frac{1}{4}$] of the southeast quarter [$\frac{1}{4}$] of section two [2], all lying and being in township one hundred and two [102], range eighteen [18] west. Also the south half [2] of the south half of [$\frac{1}{2}$] section thirty-four, [34] and the south half [$\frac{1}{2}$] of the southwest quarter [$\frac{1}{4}$] of section thirty-five [35], and the southwest quarter [$\frac{1}{4}$] of the southeast quarter [$\frac{1}{4}$] of section thirty-five [35]. Also a strip of land fully forty [40] rods in width, extending north and south, off from the west side of the northwest quarter [$\frac{1}{4}$] of the southeast quarter of section thirty-four [34]; also, the land included and known as Oakwood cemetery, being in the southwest corner of the southwest quarter [$\frac{1}{4}$] of the northeast quarter [$\frac{1}{4}$] of section thirty-four (34), all in township one hundred and three (103), range eighteen (18) west.

SEC. 3. The said city shall be divided into three [3] wards, to be called first [1st], second [2d] and third [3d], limited, bounded and described as follows, to-wit: All that territory lying east of the Cedar river, and included in the designated boundaries of said city, shall constitute the Third [3d] ward; all that territory within the designated boundaries of said city, which lies west of the Cedar river, and north of a line drawn west from the Cedar river, through the center of Bridge and Cedar streets, in said city, to the west boundary thereof, shall constitute the First [1st] ward; all that territory included within the limits of said city, and not included in the First [1st] and Third [3d] wards, shall constitute the Second [2d] ward.

CHAPTER II.

ELECTIVE OFFICERS AND ELECTIONS.

SECTION 1. The elective officers of the city shall be a mayor, treasurer, recorder, one [1] assessor and one [1] alderman at large, all of whom shall have been residents of the city one [1] year next preceeding their election, and qualified voters. Each ward shall elect two

[2] aldermen, one [1] justice of the peace, and one [1] constable, all of whom shall have been residents of their respective wards thirty [30] days next preceeding their election, and qualified voters; *Provided*, That there shall be but one [1] alderman elected for each ward in each year, except to fill vacancies. The justices of the peace, constables, and the aldermen of each ward shall hold their offices for two [2] years, or until their successors are elected and qualified. And the mayor, recorder, treasurer, assessor and alderman at large shall hold their office for the term of one [1] year, or until their successors are elected and qualified.

SEC. 2. The election for city officers and the aldermen of said city shall be held on the second [2nd] Tuesday of March of every year in each ward of said city, at such places as may be fixed by the common council of said city, which election shall be conducted by the aldermen of each ward, or such other persons as may be designated by the common council at least ten [10] days before such election, who shall be inspectors of such election, and who shall take the oath or affirmation prescribed by the general laws of the state to be taken by judges of election, and vacancies among the inspectors at the time of the opening of the polls shall be filled, as vacancies among judges of election are filled, by the general laws of this state. And the common council shall designate some suitable persons to act as clerks of election in each ward, and in case of failure to so designate, or the absence of the person so designated, the said inspectors shall have full power to appoint all necessary clerks to conduct such election, and administer all necessary oaths to said clerks. Said election shall be held and conducted in the same manner and under the same penalties as required by the general laws of the state regarding elections.

SEC. 3. All elections by the people shall be by ballots, and each ballot shall contain the names of the persons voted for with a proper designation of the office written or printed thereon, and a plurality of votes shall constitute an election. When two (2) or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council at such time and in such manner as they shall direct.

SEC. 4. All persons entitled to vote for state or county officers, and who reside in the ward where they offer to vote, shall be entitled to vote for any officer to be elected under this law; *Provided*, their names shall have been duly inserted in the list of qualified electors of the ward in which they reside, as in the case of the election of state and county officers; and the different wards established by law shall constitute election districts for state and county as well as city elections, and the mode of conducting all state and county elections in this city shall be in the manner herein provided in reference to city elections, except that the returns thereof shall be made by the judges or inspectors to the county auditor of the county of Mower, within the time and manner prescribed by law.

When the election for aldermen or city officers shall be closed, the judges or inspectors shall make return thereof to the city recorder within twenty-four (24) hours after such election, in the same manner as provided by law for the return of state and county officers to the county auditor, and within one (1) day thereafter the common council shall meet and canvass the returns thereof, and declare the result as appears from such returns, and the city recorder shall forthwith give notice to the persons elected of their respective elections.

SEC. 5. Any officer removing from the city or ward for which he was elected or appointed, or any person who shall refuse or neglect for ten (10) days after notice of his election or appointment to qualify and enter upon the duties of his office, shall be deemed to have vacated the office, and any officer having entered upon the duties of his office, may resign by giving notice thereof to and with the consent of the common council. Upon the happening of either of the contingencies hereinbefore expressed, it shall be the duty of the common council to declare the office vacant, and to provide that the same be filled, as hereinafter provided.

SEC. 6. Whenever a vacancy shall occur in the office of mayor or alderman, by death, removal, resignation or otherwise, the common council shall have power, and it shall be their duty, to declare the office vacant, by resolution entered upon the minutes. Such vacancy shall be filled by a new election, which shall be ordered by the common council within ten (10) days after said vacancy is declared, and held within twenty (20) days after such declaration, and reasonable notice of such election shall be given. Any vacancy happening in any other office shall be filled by the common council, unless otherwise provided for. The person elected or appointed to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term, and with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill; *Provided*, That no special election shall be held to fill any vacancy in any elective office when such vacancy occurs within six (6) months of the expiration of their term of office. In such case the vacant office shall be filled by the common council.

SEC. 7. No person shall be eligible to or shall be elected or appointed to, any office in the city who is in any manner, either directly or indirectly, interested in any contract with the city, regardless as to whether said contract was made with the common council or any officer or board of said city for the benefit of said city, and all contracts made by the said common council, or any officer or board of said city, for the benefit of said city, with any officer thereof, directly or indirectly, shall be wholly void.

SEC. 8. Every person elected or appointed to any office under the provisions of this act shall, before he enters upon the duties of his office take and subscribe an oath of office, and file the same with the city recorder of the city; and the treasurer, recorder and such other officers as the common council shall require, shall severally, before they enter upon the duties of their respective offices, ex-

ecute to the city of Austin, bonds in such amounts and with such sureties and conditions as the common council shall prescribe: and in the absence of special provisions, such officers shall give bonds in the amounts and upon conditions of the bonds of their predecessors in office. The bond of the city treasurer shall be executed by at least four [4] sureties, who shall justify in the aggregate amount of double the penal sum of said bond, and shall be approved by the common council by resolution. The bonds of the other city officers shall be approved by the common council, or any proper authority thereof; and the said common council may require of any officer to execute new bonds, or additional bonds, when for any cause they may deem the bonds of said officer to be insufficient, and may remove any officer who refuses or neglects to furnish such new or additional bonds when required so to do by said common council.

SEC. 9. The term of every officer elected under this law, shall commence on the third [3d] Tuesday of March, of the year for which he was elected, and shall, unless otherwise provided, continue for one [1] year and until his successor is elected and qualified.

SEC. 10. Should there be a failure by the people to elect any officer herein required to be elected on the day designated, the common council may order a new election to be held, ten [10] days notice of time and place being given.

SEC. 11. Special elections to fill vacancies, or for any other purpose, shall be held and conducted in the same manner, and the returns thereof made in the same form and manner as in general and annual elections, and within such time as may be prescribed by resolution.

CHAPTER III.

OF THE DUTIES OF OFFICERS.

SECTION 1. The mayor shall be the chief executive officer of the city, and *ex officio* president of the common council, but shall not vote on any question. He shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city shall discharge their respective duties. He shall, from time to time, give to the common council such information and recommend such measures as he may deem of advantage to the city. All ordinances and resolutions shall, before they take effect be presented to the mayor for his approval, and if he approves the same he shall indorse his approval upon and sign the same, and such as he shall not approve he shall return to the common council, with his objections thereto, by depositing the same with the city recorder, to be presented to the common council at the next stated meeting thereof; and upon the return of any ordinance or resolution without the approval of the mayor, to the common council, the vote by which the same was passed shall be reconsidered, and if after a reconsideration it shall be passed by a vote of two-thirds ($\frac{2}{3}$) of all the members of said council it shall have the same effect as if

approved by the mayor; any ordinance or resolution not returned by the mayor within five [5] days after it shall have been presented to him shall have the same effect as if approved by him.

SEC. 2. In case the mayor shall be absent from any meeting of the common council, the alderman at large shall be the temporary presiding officer, who for the time being shall discharge all the duties of the mayor. In case of the absence of the mayor from the city, or his inability from any reason to discharge the duties of his office, the alderman at large shall be the acting mayor, and all acts performed by him while acting in the capacity of mayor shall have the same force and validity as if performed by the mayor.

SEC. 3. There shall be a recorder of said city, styled the city recorder, who shall keep his office at the place of meeting of the common council, or such other place convenient thereto as the common council may determine. He shall keep the corporate seal, and all the papers and records of the city, and keep a record of the proceedings of the common council, at whose meetings it shall be his duty to attend. Copies of all papers filed in his office, and transcripts from all records of the common council certified by him under the corporate seal, shall be evidence in all courts as if the original were produced. He shall draw and countersign all orders on the city treasurer, in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof in books provided for that purpose.

The city recorder shall have power to administer oaths and affirmations. It shall be the duty of the city recorder to report to the common council the financial condition of the city whenever the common council shall require. He shall make and keep a list of outstanding city bonds, to whom issued, for what purpose, when and where payable, and the rate of interest they respectively bear; and recommend such action to the common council as will secure the punctual payment of the principal and interest of such bonds. He shall report to the common council annually, on or about the first (1st) day of September, or preceding to the time of the levy of the city taxes in each year, an estimate of the expenses of the city, and likewise the revenue necessary to be raised for the current year. He shall make or cause to be made estimates of the expenses of any work to be done by the city, and countersign all contracts made in behalf of the city, and certificates of work authorized by any committee of the common council, or by any city officer. And every contract made in behalf of the city, or to which the city is a party, shall be void unless signed by the recorder. The city recorder shall keep regular books of account, in which he shall enter all indebtedness of the city, and which shall at all times show the precise financial condition of the city; the amount of bonds, orders, certificates or other evidences of indebtedness which have been redeemed, and the amount of each outstanding; to countersign all bonds, orders or other evidences of indebtedness of the city, and to keep accurate accounts thereof, stating to whom and for what purpose issued, and the amount thereof; to keep accounts of all receiving and disbursing officers of the city,

showing the amount they have received from the different sources of revenue, and the amount which they have disbursed under the direction of the common council. He shall keep a list of all certificates issued for work or other purpose, and before the levy by the common council of any special tax upon the property in the city, or any part thereof, shall report to the common council a schedule of all lots or parcels of lands which may be subject to the proposed special tax or assessment, and also the amount of such special tax or assessment which it may be necessary to levy on such lots or parcels of lands, which said schedule shall be certified by the affidavit of the recorder, and shall be *prima facie* evidence of the facts therein stated in all cases wherein the validity of such special tax or assessment shall come into question. The common council shall, if from such report they deem such special tax legal and just, cause the same to be levied in pursuance of the provisions of this act. If, before the first (1st) day of January, of any year, the amount expended, or to be expended chargeable to any city fund (adding thereto the current expenses estimated for the remainder of the fiscal year and chargeable to such fund) shall be equal to three-fourths ($\frac{3}{4}$) of the tax authorized to be raised, or revenue estimated for such fund, he shall report at once the same to the common council, and he shall not countersign any contract chargeable to such fund until the amount of taxes actually collected be ascertained; and during the remainder of the fiscal year he shall not countersign any contract, the expenses of which shall exceed the revenue actually collected for the fund to which such expenses are properly chargeable. The recorder shall examine all the reports, books, papers, vouchers and accounts of the city treasurer, and from time to time shall perform such other duties as the common council may direct. And he shall keep a record of all his acts and doings, and keep a book in which he shall enter all contracts, with an index thereto; such record shall be open to the inspection of all parties interested. The city recorder shall receive a compensation to be paid by the common council, and they may change, increase or diminish the same during the time for which said officer was elected or appointed; and nothing in section fifteen (15) of chapter three (3) of this act shall be construed to conflict with this amendment.

SEC. 4. The common council shall have power to elect an attorney for the city, who shall perform all professional services incident to his office, and when required, shall furnish opinions in writing upon any subjects submitted to him by the common council, or its committees. He shall advise with and counsel all the officers of the city in regard to their official duties, and attend the stated meetings of the common council, and of such committees as may require his assistance. He shall hold his office for the term of one [1] year, and his compensation shall be fixed by the common council. *Provided*, The common council shall have the right and authority to employ an attorney to assist the city attorney in the prosecution or defense of any proceeding or action at law in which the city is interested, or to discharge the duties of a city attorney when there is none.

SEC. 5. The treasurer shall receive all moneys belonging to the city, including license money and fines, and keep an accurate and detailed account thereof in such books, and in such manner therein provided, as the common council shall furnish. The treasurer shall report to the common council annually, on or before the third [3d] day of March, a detailed statement of the receipts, and a gross statement of the city orders paid during the fiscal year, ending with the last day of February, together with the condition of the treasury at such date, which statement shall be filed with the city recorder, and a copy of the same published in the official paper of the city. The treasurer's books shall be subject at any and all times to the demand of the common council for inspection and to its appointed committee therefor, and as otherwise provided for and required in this act.

SEC. 6. The assessor of the city of Austin shall qualify and shall perform the duties pertaining to his office in accordance with the general statutes of the state in regard to assessors, and shall at the time provided by the general laws of the state present at the office of the city recorder, or such other place as the common council may provide, his assessment for review. He shall be present during the review of said assessment, to advise, if needed, in regard to the same, and upon the completion of said review within the time prescribed by the general laws make final return to the county auditor.

The assessor shall receive such compensation as the common council shall direct; *provided*, that the compensation paid to him shall not exceed in any one (1) year, one hundred dollars (\$100) for assessing the personal property, and one hundred and fifty dollars (\$150) for assessing the personal and real estate property in said city.

SEC. 7. The common council shall at their first meeting after the annual election, or an adjournment thereof, elect by ballot a street commissioner, who shall hold his office for one year. It shall be the duty of the street commissioner to conduct, execute or superintend any such work, repairs or improvements upon the streets, alleys, bridges, public grounds or public works of said city as may be committed to him by the common council, and he shall be required to execute a bond, with sureties satisfactory to the common council, conditioned for the faithful performance of his duties, and that he will account for all moneys collected or received by him in his official capacity or belonging to the city. He shall receive such compensation, as the common council may direct, not to exceed one hundred and fifty dollars (\$150) per annum.

SEC. 8. The common council at their first meeting after the annual election, or as soon thereafter as may be, may elect a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office in some convenient place in said city, and the common council may prescribe his duties, and fix the fees and compensation for any services performed by him. All surveys, profiles, plans or estimates made by him for the city shall be the property of said city and shall be carefully preserved in the office of the recorder, open to the inspection of persons interested. He shall hold his office for the period of one (1) year.

SEC. 9. The justices of the peace elected in each ward of the city, shall possess all the authority, power and rights, of a justice of the peace of the county of Mower under the laws of this state, and shall have in addition thereto exclusive and original jurisdiction to hear and try all complaints for violation of any provision or provisions of the city charter, or any ordinance, by-laws, rule or regulation, made or adopted under, or by virtue thereof, and of all cases cognizable before a justice of the peace, in which the city is a party, and of all writs, prosecutions and proceedings in the recovery of any fine, forfeiture or penalty under any by-law, ordinance, or regulation of the city or its charter, and in all cases of offenses committed against the same. And the said justices of the peace shall have jurisdiction in cases of larceny, and may hear and try the same where the amount claimed to have been stolen does not exceed the sum of twenty dollars (\$20). In all prosecutions for assaults, batteries and affrays, and for all other offenses not indictable, and in all civil suits or proceedings before said justices of the peace, the same forms and proceedings shall be had and used when not otherwise directed, as are established and required to be had in civil and criminal actions, by the laws of this state before a justice of the peace; and appeals from the judgments and decisions of said justices of the peace shall be allowed as now provided by law, for appeals from judgments rendered by justices of the peace. In all cases of convictions for assaults, batteries and affrays within said city, and in all cases of convictions under any ordinance of the city for breach of the peace, disorderly conduct, keeping houses of ill fame or frequenting the same, and of keeping and maintaining disorderly or ill governed houses, the said justices shall have power, in addition to the fines or penalty imposed, to compel said offenders to give security for their good behaviour, and to keep the peace for a period not exceeding six (6) months, and in a sum not exceeding five hundred dollars (\$500). The said justices of the peace shall have the same power and authority in cases of contempt as a justice of the peace under laws now in force. All fines and penalties imposed by justices of the peace for all offenses committed within the city limits, or for the violation of any ordinance, by-law or regulation of said city, shall belong to and be a part of the revenue of the city.

SEC. 10. The justices of the peace shall as often as the common council may require, report to the common council all the proceedings instituted before them, in which the city is interested, and shall at the same time account for and pay over to the city treasurer, all fines and penalties collected or received by them belonging to said city; and said justices shall be entitled to receive such fees as are allowed by statute to justices of the peace for similar services.

SEC. 11. Said justices of the peace shall be in attendance at their offices for the transaction of business at such reasonable hours as the common council may prescribe, and complaints may be made to, and writs and process issued by them at all times in court or otherwise.

SEC. 12. In all suits brought in behalf of said city for the recovery of any forfeiture, fine or penalty, in all cases arising on complaints for the violation of any ordinance, by law or regulation of said

city, and on complaints for assault, battery or affray, or other misdemeanor, or criminal offense, not indictable, committed within said city, the said justices shall be authorized to tax with the other legal costs, one (1) dollar for each trial for the benefit of said city, and their residence in said city shall not deprive them of jurisdiction of actions brought in favor of or against said city, when such actions are otherwise within the jurisdiction of a justice of the peace; *Provided*, That said fee of one (1) dollar shall not be collected from the county of Mower or the city of Austin.

SEC. 13. The constables of said city shall have the powers of constables under the general laws of this state, and any process issued by any justice of the peace of said city, may be served by the sheriff of Mower county, police officer or constable of said city, and all general laws of this state applicable to the service and return of any such process shall govern in the service thereof. The sheriff of Mower county, constables and police officers of said city shall have the power to arrest any person violating any law, by-law, ordinance, rule or regulation of said city in the presence of any of said officers, and to take such person or persons before a justice of the peace of said city, and may detain him a sufficient time for that purpose, not exceeding twenty-four (24) hours in some proper place for such person in said city. When any person arrested as aforesaid, shall be brought before said justice, he shall immediately proceed in a summary manner to try such person, on complaint preferred by the officer making the arrest.

SEC. 14. The mayor or acting mayor, sheriff of the county of Mower, or his deputy or deputies, coroner, and each alderman, the justices of the peace, police officers, constables and watchmen, shall be officers of the peace, and may command the peace, suppress in a summary manner, all rioting and disorderly behavior within the limits of the city, and for such purposes may command the assistance of the bystanders, and if need be, of all the citizens and military companies. And if any person, bystander, military officer, or private, shall refuse to aid in maintaining the peace, when so required, each person shall forfeit and pay a fine of fifty (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 mentioned in this section shall direct the proceedings.

SEC. 15. The common council at their first meeting after each annual election, or as soon thereafter as may be, shall advertise for proposals to do the city printing, giving public notice of not less than one (1) week, in such manner as the council may direct, that sealed bids shall be received by the recorder of the common council for doing said printing. The bid or bids received by the recorder to do said printing shall be publicly opened and read by the recorder, at such time and place as the common council shall appoint, and the person or persons offering to do said printing for the lowest sum or price in any newspaper published in said city, and shall give satisfactory security for the performance of the work, shall be declared the city printer for the ensuing year, and in the newspaper designated in said accepted bid or proposal, shall be published all ordinances, by-

laws and other proceedings and matter required by this act or by the by-laws, or ordinances of the common council to be published in a public newspaper. The city printer or printers, immediately after the publication of any notice, ordinance or resolution, which is required to be published, shall file with the city recorder a copy of such publication, with his affidavit, or the affidavit of his or their foreman, of the length of time the same has been published, and such affidavit shall be *prima facie* evidence of the publication of such notice, or ordinance or resolution. *Provided*, That if no person will publish or offer to publish in any newspaper published in said city, such ordinances or other matter as the common council may require to be published, at a rate not exceeding that now prescribed by statute for legal advertisements or notices, the common council may make such other provisions for publishing its ordinances, by-laws and matters requiring publication as it may think fit, anything herein contained to the contrary notwithstanding.

SEC. 16. If any person, having been an officer of said city, shall not within ten (10) days after notification and request, deliver to his successor in office all property, books, papers and effects of every description in his possession belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city one thousand (1,000) dollars besides all damages caused by his neglect or his refusal so to deliver, and said successor may receive possession of such books, papers and effects, in the manner prescribed by the laws of this state.

SEC. 17. The common council shall have power at any time to require other and further duties to be performed by any officer whose duties are herein described, not inconsistent with this act, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, unless otherwise provided for, but no officer elected or appointed by the common council or appointed by the mayor as hereinbefore provided, shall be appointed for a longer term than one (1) year, and until his successor is elected or appointed and duly qualified.

The common council shall have the power, unless herein otherwise provided, to fix the compensation of all officers elected or appointed under this act, and such compensation shall be fixed by resolution; and in regard to all offices created by this charter, the compensation shall be fixed within three (3) months from the first organization and meeting of the common council; and the compensation so fixed shall not be changed, increased or diminished, during the term for which such officer was elected or appointed.

No officer elected or appointed to office under the provisions of this charter, shall be a party to or interested in any contract in which the city is interested, made while such officer is holding office: *Provided*, That the mayor and aldermen shall receive no compensation for their services as such officers, except that as judges of election.

CHAPTER IV.

OF THE POLICE.

SECTION 1. The police force of the city shall consist of the mayor, who shall be the chief executive officer of the city, and who shall at all times have control and supervision of the police of the city, and such other policemen and watchmen as he shall, by and with the consent of the common council, appoint. He shall have the power to remove, suspend or discharge any police officer summarily, whenever in his opinion the welfare of the city may demand it, either for the appointment of other officers in their places or for the reduction of the police force.

SEC. 2. The mayor may likewise, 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 shall not exercise any police authority, nor wear any official badge outside of the limits named in such appointment.

SEC. 3. The mayor shall, in case of riot or large public gatherings, or disturbance, or when in his judgment the occasion requires, appoint such number of special policemen or temporary police officers as he may deem necessary, but such temporary appointments shall not continue more than one (1) week without the consent of the council.

SEC. 4. The mayor shall, in his appointments, designate one (1) officer to be chief of police, and such other officers for special duties, and with such control over other officers or watchmen as he may deem necessary, and may designate the rank of such police officers by such proper title as he may select.

SEC. 5. All police officers and watchmen of the city shall possess the powers of constables at common law under the laws of the state, and in addition thereto shall have power, and it shall be their duty to serve and execute all warrants, processes, commitments and any writs whatsoever, issued by the justices of the peace of said city, and they shall have power, with the consent of or by the direction of the mayor, to pursue and arrest any person fleeing from justice in any part of the state. When they pursue criminals out of the city, and such criminals are charged with offenses against the state law, they shall be entitled to receive for their own use all fees for such pursuit and all rewards offered for the apprehension of such criminals.

SEC. 6. The mayor shall, with the consent and approval of the common 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 he may deem necessary. Such regulations may designate uniforms, badges, arms, discipline and drill exercise of the police force, as well as the conduct of the officers and men when on and off duty and all other matters deemed necessary to promote the efficiency of the force.

SEC. 7. If any person shall, without authority, assume to act as po-

licemen, or pretend to have such power, or wear a badge of a policeman within the city, he shall be deemed to be guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding one hundred dollars (\$100), or imprisoned not exceeding thirty (30) days, or both, at the discretion of the court.

CHAPTER V.

THE COMMON COUNCIL—ITS GENERAL POWERS AND DUTIES.

SECTION 1. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be "The Common Council of the City of Austin do ordain." A majority of the aldermen shall constitute a quorum, but a less number may meet at the time of any stated meeting and adjourn, and all business transacted at such adjourned meeting shall have the same validity as if done at a stated meeting.

SEC. 2. The common council shall hold stated meetings on the first (1st) Friday of each month, at such hour as they may designate by resolution, and the mayor may call special meetings of the common council by notice to each of the members, to be delivered personally, or left at their usual places of abode, which said notice shall contain a statement of the business for which said meeting is called, and no other business shall be transacted in such special meeting except such as is designated in such notice. *Provided*, That the first stated meeting to be held after an election shall be held on the third (3d) Tuesday in March of each year at seven thirty (7:30) o'clock, p. m.

SEC. 3. The common council shall be the judge of the election and qualification of its members, and in such cases shall have power to send for person and papers. It shall determine the rules and regulations of its own proceedings, and have power to compel the attendance of absent members, and may provide for the punishment of such absent members in addition to the forfeiture provided for in this act.

SEC. 4. The common council shall have power to remove from office any officer of said city, whether appointed or elected by the people; but no officer elected by the people shall be removed except for cause, nor unless first furnished with a copy of the charges, nor until such person shall have had reasonable opportunity to be heard in his own defence. Continued absence from the meetings of the council in case of aldermen, and neglect of duty in case of other officers, unless for good reason, or being in any way interested in any contract with the city, shall be deemed good cause for removal. The common council shall fix a time and place for the trial of any officer against whom charges may be preferred, of which not less than ten (10) days' notice shall be given to the accused, and shall have power to send for person and papers, and shall have power to compel the attendance of witnesses and hear and determine the case; and if such officer shall refuse or neglect to appear and defend, the common council shall declare the office vacant.

SEC. 5. The common council shall have the management and control of the finances (subject to the provisions of this act) and all property of the city, and shall likewise, in addition to the power herein vested in them, have full power to make, enact, ordain, establish, publish, enforce, alter, modify, amend, and repeal all such ordinances, rules and by-laws for the government of the city, and to promote the good order of the same, for the suppression of vice and intemperance, and for the prevention of crime, as they shall deem expedient; they shall have power to establish and maintain a city prison and work house for the imprisonment, custody and safe keeping of all persons arrested for or charged with any offense against any ordinance of the city or laws of the state cognizable before the justices of the city; to make rules and regulations for the government and management of such city prison and workhouse, and to appoint keepers and other officers of the same, to prescribe their duties and fix their compensation. The keepers of said prison and workhouse shall possess all the powers and authority of jailers at common law or by the laws of this state. The common council shall have full power and authority to declare and impose penalties and punishments and to enforce the same against any person or persons who may violate any of the provisions of any ordinance, rule or by-law passed and ordained by them; and all such ordinances, rules and by-laws are hereby declared to be and have the force of law; *Provided*, They be not inconsistent with the constitution and laws of the United States and of this state, and for these purposes shall have authority by ordinances, resolutions or by-law—

First—To license and regulate the exhibition of common showmen and shows of all kinds, the exhibition of caravans, circuses, concerts, theatrical performances, and also to license and regulate all auctioneers, billiard tables, pigeon-hole tables, nine or ten pin alleys, bowling saloons, butcher shops and butcher stalls and venders of butcher meats, pawnbrokers, insurance offices and insurance agencies, taverns, lager beer saloons, theatres, skating rinks, victualling houses and all places of public amusements, and all persons vending or dealing in spirituous, vinous, fermented, or malt liquors, and all dealers in second hand goods, junk dealers, and all keepers of intelligence offices and employment offices, all draymen, hackmen, peddlers and persons selling goods at retail by sample; *Provided*, That all licenses, except for exhibitions, caravans, circuses, menageries, concerts and theatrical performances shall extend to and expire on the first (1st) Monday of May next following the issuing thereof. *And provided further*, That the power to regulate above given shall extend to, and be construed to include, among other powers, the power to define who shall be considered pawnbrokers, auctioneers, dealers in second hand goods and junk dealers and peddlers.

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, within the city, and to restrain from vending or dealing in spirituous, vinous, fermented or malt liquors, unless duly licensed by the common council,

and no license issued by the common council shall be transferable. *Provided*, That nothing contained in these articles of incorporation shall be so construed as to prevent the people of said city of Austin from deciding for themselves whether or not license shall be granted to any person or persons in said city to sell lager beer, spirituous, vinuous, malt or fermented liquors, and the city recorder is hereby required, on the petition of ten (10) or more legal voters of said city, at any time not less than ten (10) days before any annual city election, to give notice that the question of license will be submitted at said election; and notice thereof shall be given by said city recorder at the same time and in the same manner that notices of annual city elections are given; and said question of license shall be determined by ballot containing the words "in favor of license" or "against license" (as the case may be), which vote shall be canvassed and returned as is by law prescribed for canvassing election returns; and if such returns show that a majority of the votes cast at said election shall be against license, then in such case the common council of said city shall grant no license to sell lager beer, spirituous, vinuous, malt or fermented liquors in said city of Austin, except to persons legitimately and bona fidedly engaged in the business or occupation of druggists, and then only for medical and mechanical purposes. *And provided further*, That nothing contained in these articles shall be construed so as to prevent the common council of said city, and they are hereby authorized and directed in all cases where the people of said city have heretofore determined or shall determine by vote as provided in this foregoing second (2d) sub-division of section five (5), chapter five (5), to grant no license for the sale of spirituous, vinuous, malt, fermented, or other or intoxicating liquor (excepting for medical or mechanical purposes) to prohibit any and all persons from bartering, selling, giving away, or in any manner disposing of or keeping for sale or other disposal any spirituous, vinuous, malt, fermented or intoxicating liquor within the limits of said city. *And provided further*, That no license shall be granted to any person to deal in or vend within the city limits any spirituous, vinuous, fermented or malt liquors for a less sum than five hundred (500) dollars as a license fee for one (1) year or part of a year or a greater sum then one thousand (1000) dollars for the same period of time

Third. To prevent any noise, riot, disturbance and disorderly assemblage in said city, and to provide for the arrest and punishment of any person or persons who may be guilty of the same; to suppress disorderly houses, and houses of ill fame and gambling houses, and to provide for the arrest and punishment of the keepers thereof, and to authorize the destruction of all instruments and apparatus used for the purpose of gaming.

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

Fifth. To direct the location and management of stock yards, slaughter houses, markets, breweries, distilleries, soap factories, glue factories and bone boiling establishments, and to establish rates for and license venders of gunpowder and other explosives, and to regulate the storage, keeping and conveyance of gunpowder, dynamite, or other explosives or combustible material, and to regulate the use thereof in the city.

Sixth. To prevent the incumbering of streets, sidewalks, alleys, lanes and public grounds with carriages, carts, wagons, sleighs, boxes, lumber, firewood, posts, awnings, signs, or any other material whatever.

Seventh. To direct and control the laying out, construction of railroad tracks, bridges, turnouts and switches, in the streets and alleys, and the location of depot grounds within the city; to require that railroad tracks, bridges, turnouts and switches, shall be so constructed and laid out as to interfere as little as possible with the ordinary travel and use of the streets and alleys; and that sufficient space shall be left on either side of said track for the safe and convenient passage of teams and persons; to require railroad companies to keep in repair the streets through which their tracks may run, and to construct and keep in repair sidewalks, also suitable crossings at the intersections of streets and alleys, and sewers, ditches and culverts when the council shall deem necessary; 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 railway tracks over such streets and avenues of the city as the common council shall deem to require such precaution; to prevent and punish immoderate driving or riding in the streets; to compel persons to fasten their horses or other animals attached to vehicles or otherwise, while standing on the streets, and to regulate places of bathing and swimming in the waters within the city limits.

Eighth. To restrain the running at large of horses, mules, cattle, swine, sheep, poultry and geese, and to authorize the distraining and sale of the same, and to impose penalties on the owners of such animals for violation of the ordinance.

Ninth. To prevent the running at large of dogs, and to require a license for keeping the same, and to provide for and authorize the destruction, in a summary manner, of all dogs when at large contrary to this ordinance.

Tenth. To prevent any person from bringing, depositing or leaving 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 putrid or unsound beef, pork, fish, hides or skins of any kind, and, in default, to authorize the removal thereof by some competent officer at the expense of such person or persons, and to make the expenses of such removal a lien upon the premises from which such substances are removed.

Eleventh. To make and establish public pounds, pumps, wells, cisterns, hydrants, reservoirs, and to erect lamps, to provide for the lighting of the city, to contract for the erection of gas works for light-

ing the streets, public grounds and public buildings, or for the erection and maintenance of any and all systems of electric lights for like purposes; to create, extend and alter lamp districts, or to contract with other parties to furnish gas or electric lighting for such purposes.

Twelfth. To establish and regulate boards of health, provide hospitals and hospital grounds, and for the registration of births and deaths and the return of lists of mortality, and to regulate and prevent the burial of the dead within the city limits.

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

Fourteenth. To prevent any person from riding or driving any ox, horse, mule, cattle or other animals, on the sidewalks of the city, or in any way doing damage to such sidewalks.

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

Sixteenth. To prevent open or notorious drunkenness and obscenity in the streets or public places of said city, and to provide for the arrest and punishment of all persons guilty thereof.

Seventeenth. To restrain and regulate porters, hackmen, expressmen, and also runners, agents, solicitors for stages, cars, public houses or other establishments.

Eighteenth. To establish public markets and other public buildings; to make rules and regulations for the government and management thereof; to appoint suitable officers for the management thereof, and to provide for the enforcement of all rules and regulations in regard to the same.

Nineteenth. To license and regulate butchers' stalls, shops and stands for the sale of game and fish, poultry, butter, butcher's meats, and provisions; and also to license and regulate all peddlers and persons selling goods at retail by sample within said city.

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

Twenty-first. To compel the owners or occupants of buildings or grounds to remove snow, dirt and rubbish from the sidewalk, street or alley opposite thereto, and to compel such owners or occupants 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 at the expense of the owners or occupants; also to compel the owner 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 owners, and to provide that such expense shall become a lien upon the lot or property so drained or filled.

Twenty-second. To regulate and prevent the landing of the persons

from railroad cars or other conveyances infected with contagious or infectious diseases or disorders, and to make such disposition of such persons as may be necessary to preserve the health of the city.

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

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

Twenty-fifth. To regulate the inspection of wood, hay, grain, flour, pork, beef, mutton, veal, and all kinds of meat, poultry, game, fish, salt, whisky, and other liquors and provisions, and to authorize the seizure and destruction of any grossly impure or adulterated articles sold that are dangerous to the public health, and to provide for the punishment of the use of false weights and measures.

Twentieth-sixth. To appoint inspectors, weighers and gaugers, and to regulate their duties and prescribe their compensation.

Twenty-seventh. To purchase, or acquire by gift or devise, lands within the city limits, or to take and hold by lease such lands, for the purpose of parks or public grounds, and to provide for the improvement of the same; and also to direct and regulate the planting and preservation of ornamental or shade trees in the streets, alleys, parks, or public grounds and highways of said city, and to appoint a suitable person to inspect and take charge of the same, and fix his compensation and prescribe his duties.

Twenty-eighth.—To remove and abate any nuisance injurious to the public health or morals, and the common council shall have power to define what shall be considered nuisances, and to provide for the punishment of all persons who may erect or maintain such nuisances.

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

Thirtieth.—To do all acts and make all regulations which may be necessary and expedient to preserve the health of the inhabitants of the city, and the suppression of disease, to prevent the introduction of contagious diseases into the city, and to make quarantine laws and enforce the same within the city.

Thirty-first.—To restrain and punish vagrants, mendicants, street beggars and prostitutes.

Thirty-second.—To license and regulate draymen, hackmen, expressmen, and other persons engaged in the carrying of passengers, baggage or freight, and to regulate their charge therefor, and to authorize the mayor and chief of police of said city to regulate and direct the location of vehicles standing upon the streets and public grounds in said city.

Thirty-third.—To regulate the construction of all buildings of more than two (2) stories in height, and prescribe fire limits in said city, and to prohibit the erection of wooden buildings or of placing wooden sidewalks within said limits.

Thirty-fourth.—To provide for and regulate the erection of hitch-

ing posts or rings for the fastening of horses or other animals, or to prohibit the same in any portion of the city.

Thirty-fifth—To regulate the opening of hatchways and cellar ways upon the streets or sidewalks of the city and to compel proper guards about the same.

Thirty-sixth—To regulate the numbering of houses and lots and to compel owners of houses and other buildings to have such numbers designated thereon.

Thirty-seventh—To require the owner or lessee of any building or structure now or hereafter erected in said city to place thereon such fire escapes and such appliances for the protection against or extinguishment of fires, as it may direct, and to do each and every other act which it may think necessary or advisable to lessen the danger to human life in case of fire or accident.

Thirty-eighth—To regulate and control the quality and measurement of gas, to prescribe and enforce rules and regulations for the manufacture and sale of gas, to prescribe for the inspection of gas and water metres, and appoint an inspector and prescribe his duties.

Thirty-ninth—To regulate and prohibit the location and size and construction of steam boilers, as it may designate as being dangerous to life and property in the city, and to prohibit the location of such boilers at any place where the common council may deem dangerous to life and property.

Fortieth—To regulate and control or prohibit the placing of poles therefor, or the suspending electric light or other wires along or across any of the streets of said city, and to require any already placed or suspended, either in limited districts or throughout the entire city to be removed and placed beneath the streets and sidewalks of the city, and to compel the proper insulation of all electric light wires and other wires in use within the city.

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

Forty-second—To restrain, regulate and control the cutting of ice in the Cedar river, within the limits of the city.

Forty-third—The common council is authorized to permit the construction and operation of street railways within the said city, and may prescribe the street or streets on which the same may be constructed, and may impose such restrictions and limitations on the same as to the council may seem proper; but no such privilege shall be granted to any individual or individuals for a longer period of time than twenty (20) years, and the said council may also provide for the introduction and use of electric lights within said city under such regulations as the council may prescribe.

Forty-fourth—The common council may also provide for the laying out and constructing of a system of general sewerage within the said city, and, if authorized thereto by a majority of the electors who shall vote upon the question of the issuing of such sewerage bonds at any general or special election, may issue and negotiate the bonds of said city in any amount not exceeding twenty thousand (20,000) dol-

lars, to pay for the same. Such bonds to run for such length of time and to bear such rate of interest, not exceeding six (6) per cent., as to the council may seem proper.

SEC. 6. All ordinances, regulations, resolutions and by-laws shall be passed by an affirmative vote of a majority of the members of the common council present by ayes and noes, which shall be entered upon the records of the council and published in the official paper of the city, approved by the mayor and recorded by the city recorder before they shall take effect. No ordinance shall be passed at the same meeting at which it shall have been presented, except by unanimous consent of the members present; which shall be noted in the records, 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. 7. A copy of the record of any ordinance heretofore passed and recorded, or which shall be hereafter passed, certified by the city recorder and attested by the seal of the city, and any copy thereof published in the official paper of the city, or compilations of the ordinances made and published under the direction of the council shall be *prima facie* evidence of the contents of such ordinance and of the regularity of all proceedings relating to the adoption and approval thereof, and shall be admitted as evidence in any court of this state without further proof. In all actions and prosecutions and proceedings of every kind before any justice of the peace of said city, such court shall take judicial notice of all ordinances of the city, and it shall not be necessary to plead or prove such ordinances in said justice courts.

SEC. 8. No appropriation shall be made without a vote of a majority of all the members of the common council in its favor, which shall be taken by ayes and noes, and entered among the proceedings of the council.

SEC. 9. The powers conferred upon the common council to provide for the abatement or removal of nuisances shall not bar or hinder suits, prosecutions or proceedings according to law.

SEC. 10. The common council shall examine, audit and adjust the accounts of the treasurer, and all other officers of the city at such times as they deem proper, and also at the end of each year, and before their term of office shall expire; and if any officer shall refuse to exhibit his books, accounts and vouchers for examination, and settlement, or shall refuse to comply with the orders of said council in the discharge of his duties, in pursuance of this section, the common council shall declare such office vacant, and the common council shall order suits and proceedings at law against any officer and agent of the city who may be found delinquent or defaulting in his accounts or the discharge of his official duties, and shall make a full record of all settlements and adjustments.

SEC. 11. The common council shall have the management and control of the finances, and all property of the city both personal and real, and may provide for the sale of any such property in such manner as it shall consider for the best interest of the city.

SEC. 12. The common council shall have power to acquire by purchase, grant or condemnation such private property as may be necessary for sites for public buildings for the use of the city or any department thereof, and for all streets, alleys, parks, and public squares in said city, and to ascertain and determine the value of such private property taken for such uses and the amount of damages occasioned to any such private property by reason of any public works or structures, and for that purpose may appoint committees to appraise such values or damages, or to acquire information thereof in any other manner deemed advisable by said common council.

SEC. 13. Any license issued by the authority of the common council may be revoked by the mayor or common council at any time; and, upon conviction before any court of any person holding a license for the violation of any provision of any ordinance, relating to the exercise of any right granted by such license, the court may, and upon a second conviction shall, revoke such license, in addition to the penalties provided by law or ordinance for any such violation.

CHAPTER VI.

FINANCES AND TAXATION.

SECTION 1. The common council shall have power to levy upon all property real and personal within the city of Austin except such as may be exempted by the laws of this state, taxes for the support of the city government and payment of its debts and liabilities, and the same shall be assessed in the manner provided for by the general laws of this state. The common council may levy an annual tax upon all property in said city, taxable under the laws of this state, to and for the specific purposes following, provided that nothing herein contained shall prevent the assessment, levy and collection of special taxes as provided by chapter ten (10) of this act upon any and all real estate within said city, notwithstanding the same may have been heretofore exempted from taxation under the laws of this state. First: To provide for the interest to become due during the fiscal year on all outstanding bonds, and for a sinking fund sufficient to meet and pay such bonds at maturity. Second: To provide a general fund for the purchase of ground and erecting and repairing buildings for city purposes; and to pay the general current and incidental expenses of the city, including salaries of officers, police, street force, fire department, lighting the city, printing, stationery, and the expenses provided in chapter seven (7) of this act, to be paid out of the general fund; and to provide for the preservation of the health of the city; but the amount of money raised for said general fund shall only be so much as, with the income from fines and licenses, will be necessary for an economical administration of the affairs of the city, and shall not exceed ten (10) mills on the dollar of the assessed value of the taxable property of the city. Third: To provide an improvement fund, from which may be paid in the first instance all contracts for sidewalks and other improvements, which, under

chapter seven (7) of this act, are chargeable to and payable by the lots and parcels of land fronting on, or benefited by, such improvements, and all special taxes levied and collected under the provisions of chapter seven (7) of this act for the improvements first paid for from this fund, shall be returned and credited to this improvement fund; but no greater tax than two (2) mills on the dollar of the assessed value of the taxable property of the city shall be levied in any one year; and none of the taxes levied and collected for the payment of interest or principal of bonds, or for the improvement fund, shall be diverted to any other use than that for which they were originally levied.

SEC. 2. Taxes may be levied by resolution of the common council, and no tax shall be invalid by reason of any informality in the manner of levying the same, nor because the amount levied shall exceed the amount required to be raised for the special purpose for which the same was levied; but in such case the surplus shall go into the fund to which such tax belongs, and may be applied to the further use of such fund.

SEC. 3. The common council shall cause to be transmitted to the county auditor of Mower county on or before the tenth (10th) day of October of each year, or at such times as required by the general laws of this state, a statement of all taxes by them levied, and such taxes shall be collected and the payment thereof enforced with the state and county taxes, and in the same manner in which they are collected and enforced; and the county treasurer of said Mower county shall pay over to the city treasurer of said city any and all taxes and moneys collected by him or received by him for said city, as provided by general law.

SEC. 4. No moneys shall be paid out of the city treasury, unless such payment be authorized by a vote of the common council, and these shall be drawn out only upon orders by the mayor and countersigned by the recorder, which orders shall specify the purpose for which they were drawn and the name of the person in whose power the same are drawn, and may be made payable to the order of such person or to the bearer.

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

SEC. 6. The fiscal year shall commence on the first day of March—closing with the last day of February—in each and every year.

SEC. 7. Before any account, claim, or demand against the city of Austin for which said city shall be liable, shall be audited or allowed by the common council, the person in whose favor such account, claim or demand shall be, or his agent, shall reduce the same to writing in items, and the common council may receive and consider the same, and may allow or disallow the same in whole or in part as to the common council shall appear just or lawful, saving to such claimants the right of appeal.

SEC. 8. At the first stated meeting in June of each year, the mayor shall appoint by and with the consent of the common council

three (3) persons who shall constitute a board of review, they shall be sworn according to law as such board, and meet at the room of the common council in said city on the fourth (4th) Monday of June of each year, or at such time as such boards are required to meet as provided by the general laws of this state; and revise, alter and equalize the assessments on the roll of the assessor as they may deem just and proper. It shall be the duty of the assessor and city recorder to be present at all meetings of said board of review, the recorder shall act as clerk of said board, and the assessor shall present before the board all facts relating to the assessment. Such board of review shall possess and be vested with all the powers which are or may be vested in town boards of review, and may require any person who may be required to list property, or whose property is listed for taxation to appear before said board and submit to an examination on oath touching any property owned by him or under his control subject to be listed for taxation, and they may examine upon oath any person whom they may suppose to have knowledge of the amount or value of the personal property of any person, and for that purpose any member of said board is hereby authorized to administer oaths to all persons, who by the provisions of this act are required to submit to an examination before said board. Such board of review may sit from day to day or adjourn from time to time as it shall deem proper, until it shall have revised, and equalized said assessments. Any person aggrieved by any assessment shall have the right to appear before such board of review and present his grievances, and whenever it appears upon a hearing or otherwise that any property is listed or assessed at less than its true value, said board shall immediately proceed to correct such under-valuation; and whenever it appears to the satisfaction of the board that the property which ought to be listed has been omitted by the assessor, or otherwise, the board shall immediately proceed to list and place such property upon the tax roll, with the true value thereof. Any two of said board of review are authorized to act at any meeting of said board. When the assessment rolls shall have been revised by said board, they shall return the same to the common council who may confirm the same or return the same to said board for further revision, to be again reported to the common council. When the common council shall have confirmed the assessment, the city recorder shall attach thereto a certificate of such confirmation, and such rolls shall then be returned to the county auditor within the time and manner as other assessment rolls. In case the common council shall neglect to take final action on such assessment rolls on or before the time required by law for the return to the county auditor, it shall be the duty of the city recorder to return them to the county auditor, with a certificate of that fact, and in such case the assessment rolls as revised or equalized by the board of review shall have the same validity as if confirmed by said common council. Each member of said board of review shall receive three (3) dollars per day for the time actually employed in serving on said board.

CHAPTER VII.

STREETS, SIDEWALKS AND BRIDGES.

SECTION 1. The common council shall have the care, supervision and control of all the highways, bridges, streets, alleys, levees, public parks, public squares and grounds within the limits of the city, and shall have power to build and keep in repair bridges, lay out, open, alter, vacate and release public squares, parks, levees and grounds, highways, streets, lanes and alleys, and to extend, narrow, widen or straighten the same, and to purchase, hold and convey lands in fee simple, and to take grounds for the site of public buildings and public parks, subject to the assessment of damages as hereinafter provided.

SEC. 2. The common council shall have power to establish the grade of any street, when such grade has not been established, and may, by vote of two-thirds ($\frac{2}{3}$) of the members of the council, change the grade of any street after such grade has been established. It shall cause accurate profiles of the grades of all streets to be made and kept in the office of the city recorder.

SEC. 3. The common council may also, by a vote of two-thirds ($\frac{2}{3}$) of the members thereof, vacate any highway, street, lane or alley, or portion of either: and such power of vacating highways, streets, lanes and alleys within the city of Austin is vested exclusively in said common council, and no court or other body of authority shall have any power to vacate any such highway, street, lane or alley, nor any plat or portion of any plat of lands within said city.

SEC. 4. The common council shall have power to designate districts of portions of the streets and alleys of the city for the purpose of cleaning the same, and may provide for the cleaning of such districts by contract on such terms as shall be deemed advisable.

SEC. 5. All work done or constructions made pursuant to the provisions of this chapter shall be done by contract when calling for the expenditure of one hundred dollars (\$100) or more, and public notice shall be given and proposals invited for the same in such manner as the council shall direct.

SEC. 6. The street commissioner of the city shall also act as health inspector for said city, and shall have the same authority as police officers in enforcing the ordinances of said city for the security of public health, and shall act under the direction of the health officer and board of health of said city. All work done by the street commissioner shall be subject to the approval of the aldermen of their respective wards and the common council. It shall be the duty of such street commissioner to see that all streets and sidewalks under his charge, which have been graded and opened for travel, are kept clear from obstruction, and in such repairs as to be safe and passable; also to superintend, subject to the directions of the common council the grading of streets and laying of sidewalks, and to carry into effect all orders of the common council. The street commissioner shall not do any work upon streets except such as is necessary to keep traveled and improved sidewalks in repair and passable con-

dition, and unless such work is specially ordered by the common council. The street commissioner shall keep accurate accounts of all his work and expenditures, and make detailed and itemized report thereof to the common council at least once in every two (2) months and oftener if ordered by the council; and no bill for compensation to such street commissioner shall be allowed unless the same shall be accompanied or preceded with the full and itemized reports of all his work and expenditures up to the time of rendition of such bill.

SEC. 7. The street commissioner shall not be interested in any contract for any work to be done under his charge, nor be allowed compensation for any work in which he shall have any interest, nor for any material or labor furnished by him, except his personal services; nor shall he receive, directly or indirectly, any commission, gratuity, money or valuable things from any person doing work or furnishing material for any work or construction under the charge of such street commissioner or the common council of the city.

SEC. 8. If the street commissioner, or any other officer of the city shall have any interest in any contract work or construction done pursuant to this chapter, all such contracts shall be void, and all such work done, material furnished or applied for the use of the city shall be forfeited, and every such street commissioner or other officer who shall except any gift or gratuity, or any commission from any person having contracts with said city, or furnishing material or performing labor under the provisions of this chapter, which contract, material or labor, shall be made under the charge or supervision of such street commissioner or other officer, or subject to acceptance by them, or either of them, shall be punished in the same manner as provided by law for the acceptance of bribes by public officers.

SEC. 9. All bridges in said city whatever the form or material used in the construction thereof, shall, together with the guards and and embankments connected therewith, and the immediate approaches thereto, which form a necessary part of the same, and also all such bridges crossing railway tracks, and the approaches thereto, or any portions thereof, as shall not be chargeable to any railway company, or the county of Mower, or any town, be built, maintained and kept in repair by the city, as a general city charge; and all other expenses connected with the opening, grading, and keeping in repair streets, lanes, alleys, highways and thoroughfares, shall be paid from the general fund except where other provisions are made therefor.

SEC. 10. Whenever the common council shall determine to lay out or open new streets or alleys in said city, or to widen, straighten or extend any that now exist (or may hereafter exist,) it may for such purposes purchase or condemn any real estate, or interest therein, which is private property, and provide for the payment of the value of such property as may be taken for such improvements, and all damages done to any private property by reason of such improvement, and the expense of making such improvement, by assessing, levying and collecting the whole expense of such improvement, or such parts thereof as may be considered equitable upon the property to be benefited by such improvement, without regard to cash valuation; but no

assessment for such improvement shall exceed the actual benefit to the property upon which the same shall be assessed, and in case the whole expense of such improvement shall exceed the benefits accruing therefrom to any specific property, the excess of such expense shall be made a general city charge, and be paid as current expenses of the city. Nothing in this section shall be construed as permitting the condemnation of any ground of any cemetery or burial place, and occupied for such purposes, without the consent of the owners of such ground.

SEC. 11. The common council is authorized, in its discretion, to cause to be paved, repaved or macadamized, any street or alley, or any part thereof, in the city, or any gutter along any side of any street or alley, or any portion thereof, in such manner as it may direct, and to collect the expense and cost of the same by special assessment upon the property fronting on such improvements on the same side of the street; but the expense of paving or otherwise improving the crossings of such streets, and of such improvements as shall be in front of property exempt from such assessment or belonging to the city, shall be paid from the permanent improvement fund of the city. No assessment shall be made for paving or macadamizing any ground occupied by railway tracks or lying between such tracks.

SEC. 12. It is hereby made the duty of all owners of land adjoining any street, lane or alley in said city to construct, reconstruct and maintain in good repair such sidewalks along the side of the street, lane or alley next to the lands of such owners respectively as may have been heretofore constructed or as shall hereafter be constructed or directed by the common council to be built, and of such material and width, and upon such place and grade as the common council may by ordinance or otherwise prescribe. Whenever the common council shall deem it necessary that any sidewalk in the city of Austin shall be constructed or reconstructed, it shall, by resolution, direct such construction or reconstruction, specifying the width thereof and the material of which the same is to be constructed. The publication of such resolutions once in the official paper of the city shall be sufficient notice to the owners of the land along which such sidewalk is to be built to construct the same, and unless such owners shall each, along his respective land, construct and fully complete such sidewalks within two (2) weeks after the publication of such resolution, as aforesaid, the common council shall forthwith proceed to ascertain the expense of constructing the same, and assess and levy such expense upon and against each lot and parcel of land upon which such sidewalks shall front. Such assessment shall be collected in the same way as in all things as is provided for the collection of special assessments under the provisions of chapter six (6) of the charter, and the common council may, either before or after making such assessment, cause such portion of such sidewalks as have not been built by the owners of such land fronting on the same, and all street crossings, to be built by the street commissioner or upon contract, or by any other person as the council may determine.

SEC. 13. 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 common 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 carefully filed and preserved by the city recorder; and the common 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 upon each of the lots and parcels of land, fronting or abutting upon sidewalks which have been repaired by the street commissioner, the cost of making such repairs. In each case such assessments for all such repairs within the year may be combined in one assessment or roll, and be collected as provided for in chapter six (6) of this charter. 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 expenses 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, when the same shall be reconstructed, and collected with the assessment for such reconstruction.

SEC. 14. Moneys to build or repair sidewalks, when the same shall be done by the street commissioner under this act, or in case of building by a contractor, may be advanced from the improvement fund, to be reimbursed by the special assessment, when collected; and the expense of constructing all street crossings of sidewalks shall be chargeable to the general fund, and whenever any damages for injuries to any person, through or by means of defective sidewalks, shall be paid by the city, the money to the same shall be raised by taxation upon the taxable property of the city.

SEC. 15. It shall be the duty of the common council, before ordering the construction of any new sidewalk, to cause the ground on which it is to be built to be properly graded.

SEC. 16. All persons who shall by means of any excavations in, or obstructions upon, any street of said city, not authorized by law or the ordinances of said city, render such streets unsafe for travel, or whoshall, 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 defendants; 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 such execution shall be returned unsatisfied; and if the city shall pay such judgment, it shall become the owner of the same, and may enforce payment of the same from the other defendant, and shall be entitled to execute therein against him, and to take such other proceedings as judgment creditors are entitled to take.

SEC. 17. Whenever any party is joined with said city as co-defendant in any action for the insufficiency of any street or sidewalk, and such party is not a resident of and cannot be found within the state, service of summons in such actions may be made upon such defendant upon like evidence, and in the same manner as prescribed by general law for service by publication in other actions.

SEC. 18. No action shall be maintained against the city of Austin on account of any injuries received by means of any defect in the condition of any bridge, street, sidewalk or thoroughfare, unless such actions shall be commenced within one 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 recorder, within ninety (90) days of the occurrence of such injury or damage, stating the place, where and the time when such injury was received, and that the person so injured will claim damages of the city for such injury, said notice shall also state the amount of damages claimed and the cause of 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; nor for any insufficiency of the ground where sidewalks are usually constructed, where no sidewalk is built.

SEC. 19. 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 recover the same again from the company by whom the obstruction was caused.

SEC. 20. The acceptance of plats of additions of any grounds, 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 street, until the common council shall direct the same to be graded and open for travel.

SEC. 21. The city of Austin shall constitute one (1) road district. The common council shall issue a warrant to the street commissioner who is hereby declared possessed of all the general powers of the state belonging to road overseers, containing the whole amount of highway labor and taxes assessed and levied within the corporation which said warrant shall be returned and filed by him with the recorder within the time prescribed by the laws of this state together with a correct and detailed report of all moneys and labor collected on said warrant and the manner in which the same have been expended. The laws of the state shall apply to warning, working, suing for and collecting highway taxes and returning delinquent taxes, and in all other respects except as herein expressly provided. The common council shall have full power to direct the street commissioner, when, where and how to expend said labor and tax. The common

council shall perform the duties imposed by law upon the supervisors of towns, in levying taxes, and shall be governed and restricted in the amount so levied, by the same laws applicable to the supervisors of towns in this state in levying highway labor and taxes. Any resident of this city feeling himself aggrieved by the official conduct of the street commissioner may make complaint in writing to the mayor whose duty it shall be to immediately investigate the cause of such complaint, and if the allegations contained therein are found to be true, he shall by order in writing direct the street commissioner to discontinue and remove the subject of such grievance.

CHAPTER VIII.

WATER WORKS, SEWERS AND LIGHTING OF STREETS.

SECTION 1. The common council shall have the power to construct and maintain water works and sewers, to enlarge, extend, relay and improve the same from time to time as it shall consider the public good shall require, and the common council may permit, franchise and contract with any party or corporation to construct and establish water works, and to lay water mains and pipes in any street, alley, highway or public ground within the limits of said city, under such restrictions and regulations as the common council shall impose.

SEC. 2. Whenever in the construction, establishment, enlargement or extension of waterworks or sewers, it shall, in the judgment of the common council, be necessary to take any private property, consisting of lands, buildings, water powers, or other private property, the common council shall have power to take and acquire the same by purchase or by condemnation in the manner provided for in chapter ten (10) of this act, and in cases of condemnation a full title in fee simple to the property acquired shall vest in the city.

SEC. 3. Whenever water mains shall be laid, relaid, or extended through any of the streets, alleys or lanes of the city, or any portion thereof, the common council shall have power, and it shall be its duty, to levy and collect by special assessments such portions of the cost or expense thereof as shall not exceed the estimated cost of laying a six (6) inch main, including pipe, hydrants, valves, and all necessary specials by special assessment upon the property on both sides of such street, alley or lane fronting upon such improvement of an equal sum per front foot, without regard to the valuation of such property, as provided for in chapter ten (10) of this act.

SEC. 4. The common council may, in like manner, whenever it shall deem it necessary, lay, relay, or extend, any sewer through any street or alley, and levy and assess and collect the cost thereof, not exceeding the estimated cost of a sewer two (2) feet in diameter, including all necessary catch-basins, man-holes, dump-holes, and flushing valves, by a special assessment upon the property on both sides of the street abutting upon such improvements, of an equal sum per front foot.

A sewer of two (2) feet in diameter is hereby declared to be an ordinary sewer within the meaning of this act, for draining of abutting property.

SEC. 5. The cost not provided for by such assessment, including the cost of large water mains and larger or main sewers, and constructing the same across streets and against property by law exempt from such assessment, shall be paid out of the improvement fund, or any other fund provided for that purpose by the common council.

SEC. 6. The common council may at all times regulate and control the time and manner of laying and constructing, by private parties, branch pipes and sewers leading from main lines of water mains and sewers, and of making connections with main lines and branch lines, both public and private. The common council may, too, whenever it shall deem it necessary to lay or construct branch pipes or sewers, in order in future, to prevent tearing up of streets, or for any other reason, determine in the case of each main line or of any specified portion of a main line, the location, manner and construction of such branch lines, providing, in its discretion, one (1) or more for each lot or parcel of land, or one (1) for two (2) or more adjoining lots or parcels of land; may require the proper officer to make surveys, plats and profiles showing the same, which, when approved and adopted, shall hereafter be preserved in the office of the city recorder; and may, thereupon, whether such main line has been constructed or is in process of construction, forthwith lay and construct all such branch pipes and sewers not already constructed by private parties interested, from a connection with the main line to the line of the street; and whenever the common council constructs such branch pipes and sewers, it shall assess the whole cost of each upon the lot or parcel of land to which it runs, regardless of valuation or frontage. But in case one (1) branch is to serve two (2) or more lots or parcels of land, then it shall assess the whole cost of the same upon all the lots or parcels of land to be served, at an equal sum per front foot, without regard to the value thereof. The cost of such branches may be assessed and collected in advance of their construction, as in case of other improvements; in which case, the cost shall be estimated and fixed in manner substantially like the way pointed out by section eight (8) of chapter ten (10) of this act for improvements therein specified. The common council may, however, in case it constructs any branch at the same time that it constructs a main line, assess, in the manner above indicated, the whole costs thereof, and add the same to and include it with the assessment for the main line.

The common council may, subject to such terms and under such regulations as it may fix, require of all persons using an area, or any space within the lines of any street to permit to be laid within such area all necessary branch pipes for both water and gas, and back sewers, to a connection with other branches, and also to be laid therein, enclosed in tubes or otherwise sufficiently protected, any and all electric light wires at any time required to be laid beneath the surface of the street; and no permits for excavation or use of any area or space within the lines of a street shall be given except upon condi-

tion that it may be used by others in the manner and for the purposes above named.

SEC. 7. All expenses of keeping up and operating said water works, and of constructing, enlarging, altering, and keeping in repair pump houses, machinery, hydrants, and laying of water mains, and anything connected with said waterworks, shall, except so far as the laying of water mains to be paid by special assessment upon abutting property, be paid from the general expense fund of the city, and any excess of special assessments shall belong to the said general expense fund.

SEC. 8. It shall be the duty of the common council, from time to time to fix by ordinance rates for the use of water from the city water works, and provide for the collection of the same, and also to provide for the protection of such water works from injury or misuse or abuse.

The owner of private property which property has upon it pipes connected with the city water works to convey water upon such property, shall, as well as the lessee or occupant of the premises, be liable to the city of Austin for rents or rates of all water used upon such premises, which may be recovered by action against such owner, lessee or occupant or agent; any or all of them.

SEC. 9. The common council shall have authority to contract with any persons or corporations for the lighting of such streets or parts of streets, and public places, as they shall deem proper for the convenience and safety of the inhabitants, by electric lights, gas or otherwise as the common council shall deem best.

SEC. 10. The common council may permit the laying of gas pipes in any and all the streets, alleys, highways and public grounds of the city; but in all cases the common council shall regulate the laying of the same, so that said gas pipes may not at any time interfere with the construction of common sewers or the lateral branches thereof, or with the proper and convenient location of water mains and pipes, and may at any time require the location of any gas pipe to be changed, if the same shall be found to interfere with the proper and convenient location of common sewers or water mains and pipes.

CHAPTER IX.

FIRE DEPARTMENT.

SECTION 1. The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within wooden buildings, or buildings of all other materials that shall not be considered fire proof; shall not be erected, removed placed or repaired, and to direct that all and any buildings within the limits prescribed shall be made and constructed of fire proof materials, or of such materials, and with such precautions against fire as the common council shall by ordinance prescribe; and to prohibit the repairing or rebuilding of wooden buildings within the fire limits when the same shall be in the judgment of the common council damaged to the

extent of fifty (50) per cent. or more, of the value thereof, and to prescribe the manner of obtaining the consent to make repairs in such fire limits and of ascertaining the extent of damages.

SEC. 2. The common council shall have power to prescribe in what manner and of what material chimneys shall be constructed, and to prevent the dangerous construction and condition of chimneys, fire places, hearths, stoves, stove pipes, ovens, boilers, and apparatus used in or about any building, and to cause the same to be removed or placed in secure condition when considered dangerous; to prevent the deposit of ashes in unsafe places, and the throwing of ashes in the streets and highways; to compel the use of spark-arresters in all smokestacks connected with apparatus where light fuel is consumed; to regulate and prevent the carrying on of manufactories dangerous in causing and promoting fires, and the storing of inflammable or explosive materials, and the use of fireworks and firearms; to regulate and prevent the sale, or keeping for sale or use, of any fireworks, chinese crackers, rockets, torpedoes, or other explosive contrivances, and to provide for the seizure and destruction of the same. Also, to compel owners of buildings to have scuttles in roofs and stores and ladders to the same, and to compel owners of buildings of three (3) or more stories in height to maintain ladders or fire escapes, and to regulate the number and location thereof; to regulate the location and construction of smoke houses, and to prohibit them where they shall be deemed dangerous to other buildings, and to make any other provisions to guard against fires, or to prevent the spreading of fire which the common council may deem proper.

SEC. 3. The common council shall have power to purchase, keep and maintain fire engines and other fire apparatus, and to build and maintain engine houses, hose houses and such other buildings as may be necessary or convenient; also, to erect and maintain fire alarm telegraphs and boxes, and every other means for giving notice of fires.

SEC. 4. The common council shall have power and authority to make, by ordinance, all needful rules for the government of the fire department, and for the protection and use of all engine-houses, telegraph lines and other property and apparatus pertaining thereto, and of the water works, mains, pipes, cisterns and hydrants in said city, as used in connection with said department, and by such ordinances provide for the punishment of persons injuring or interfering with such property or any portion thereof, and may also by such ordinances make provision to keep away from the vicinity of any fire all idlers and suspected persons, and to compel all bystanders to aid in the preservation of property exposed to damage by such fire.

SEC. 5. The common council may appoint a chief engineer of the fire department, and provide by ordinance for such other officers and men as may be deemed necessary for such department, and define the respective ranks and duties of such engineer and other officers and men and their compensation.

SEC. 6. The common council may designate such officer of the fire department as it may select to act as fire marshal of the city, to see that the ordinances of the city relating to the building and care of chimneys,

and respecting all other precautions against dangers from fires, are not violated, and who shall have power and be fully authorized to enter any dwelling house or other building at all hours between seven (7) o'clock in the morning and six (6) o'clock in the evening and 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. It shall further be the duty of such fire marshal to examine particularly into the cause of every fire which shall happen within the city, and to make and keep a brief record of the same, and make report thereof to the council at the first regular meeting in every month.

SEC. 7. If any person shall, at any fire, refuse to obey the orders of the chief engineer of the fire department, or other officer vested with authority at such fires, such person may be arrested by the direction of the officer whose orders are so disobeyed, and upon complaint made before any justice of said city, shall be punished by fine not exceeding fifty (50) dollars and costs of prosecution, and imprisonment until such fine and costs are paid, not exceeding sixty (60) days.

SEC. 8. All expenses of the fire department, and all amounts paid for the purchase of fire apparatus, or any property for the use of the fire department or the erection of any telegraph, and construction of engine houses or other buildings for the use of such department shall be paid out of the general funds of the city.

SEC. 9. The common council shall have power to prohibit the construction of wooden sidewalks within the fire limits of the city whenever it shall deem the safety of the city to require it.

CHAPTER X.

CONDEMNATION OF PRIVATE PROPERTY FOR PUBLIC USE AND ASSESSMENTS FOR LOCAL IMPROVEMENTS.

SECTION 1. Whenever the common council consider it necessary to procure ground for any public building, public grounds engine houses, markets or for water works, or any water power for water works, the common council shall appoint a committee of not less than three (3) of its own members, who, together with the city surveyor shall make examination, and propose to the common council a description of the land suitable for such public grounds, engine houses, markets or public buildings, or for water works, as the case may be, and the most convenient manner of taking and using the same, and present to the common council a plat of the land proposed to be taken, and their report shall show, as far as the committee may deem necessary, what streams, buildings, tunnels and structure can be used in the appropriation, and any other matter which the committee may deem proper, and such committee may present for consideration more than one (1) plat or location.

SEC. 2. Such committee shall file their report with the city recorder of said city, who shall give notice by publication twice (2) in the

official paper of said city, that such report is on file for the inspection of all persons interested, and that the same will be presented to the common council, for action thereon, at a meeting of the common council, to be named in said notice, which shall be a stated meeting of said council, which shall occur next after one (1) week from the second (2nd) publication of such notices. At the meeting named in such notice the city recorder shall, next after the reading of the minutes of previous meeting, present such report, and the matter may be acted upon by the council at the same, or any subsequent meeting. The council may, under such rules as it may prescribe, hear any person interested in the matter, or refer the matter to a committee [to] hear and report.

SEC. 3. Whenever the common council may determine upon the lands or other property to be taken and appropriated, it shall designate the same as nearly as may be convenient, and shall cause such plat or survey as may be necessary to show or explain the same, to be made and filed therewith with the city recorder, and the common council shall then, or afterwards, appoint three (3) commissioners, who shall be freeholders of said city, and no two (2) of whom shall reside in the same ward, to view the lands, water-power, or other premises to be taken or appropriated, and ascertain and award the amount of damages or compensation to be paid to the owners of the property so to be taken or appropriated. Two (2) or more of such commissioners shall constitute a quorum, and be competent to do any act required of such commissioners. They shall be notified by the city recorder, by notice served on them severally, either personally or through the mail, to attend at his office, on or before a day fixed by him, not less than two (2) days after the service or mailing of such notice, to qualify and enter upon their duties; and if any commissioner shall refuse or neglect to attend as aforesaid, he shall forfeit and pay to the city of Austin the sum of fifty (\$50) dollars, to be recovered to the use of said city in a civil action; and in case a quorum of such commissioners shall not attend at the time and place designated in such notice, the mayor or acting mayor, of said city may, in writing, appoint one (1) or more commissioners to act in place of such absentees. The commissioners shall be sworn by the recorder, or some officer authorized to administer oaths, to discharge their duties as such commissioners with fidelity and impartiality, and make due return of their action to the common council. They shall give notice by two (2) publications in the official paper of said city, that they will, on the day designated in such notice, (which shall be at least ten (10) days after the first publication of such notice), meet at a place designated in such notice on or near the premises proposed to be taken and appropriated, and ascertain and award therefor compensation and damages; and that they will then and there hear such allegations and proofs as interested persons may offer. Such commissioners shall meet and view the premises, pursuant to such notice, and may adjourn from time to time, and, after having viewed the premises, may, for the purpose of hearing evidence or preparing the award, adjourn, or go to any other conven-

ient place in said city; and such commissioners shall make a fair and impartial appraisement and award of compensation and damages, to be paid each person whose property is taken or injuriously effected, and report the same to the common council; and such award shall lie over to the next stated meeting of said council, which shall occur more than one (1) week after such report is returned, at which, or at any subsequent time, the council may act on any such award and hear any objections made thereto, or may refer the said report to a committee, to hear and report such objections to the common council. The council may affirm or annul such award, or any part thereof, and send the same back to the commissioners for further action thereon; and such commissioners may, upon two (2) days' notice by publication in the city paper, meet at the time and place named in such notice, and hear any further evidence that may be adduced by any interested party and may adjourn from time to time for such purpose; and may correct mistakes in such award, and reverse and alter the same, as may be just, and report the same again to the common council, who may confirm or annul the same. When any such award shall have been confirmed by the common council, the same shall be final and conclusive upon all parties interested, except as hereinafter provided.

SEC. 4. Any person whose property is taken or injuriously affected under the provisions of this chapter, and who deems that there is any irregularity or injustice in the proceedings of the council or action of the commissioners, by reason of which such award of the commissioners ought not to be confirmed, may at any time before the confirmation thereof by the common council, file with the city recorder, in writing, his objections to such confirmation, setting forth specifically such irregularity complained of, and if, notwithstanding such objections, the common council shall confirm the award, such person so objecting shall have the right to appeal from the order confirming such award to the district court of the county of Mower at any time within ten (10) days after such confirmation. Such appeal shall be made by serving a written notice of such appeal upon the city recorder, which shall specify the property of the appellant affected by such award and refer to the objections filed as aforesaid, and by also delivering to said recorder a bond to the city of Austin, executed by the appellant, or by some one in his behalf, with two (2) sureties, who shall justify in the penal sum of fifty (50) dollars, conditioned to pay all costs of such appeal, which may be awarded against the appellant and which bond shall be approved by the recorder. Thereupon the recorder shall make out and transmit to the clerk of the district court a copy of the award of said commissioners, as confirmed by the common council, and of the order of the common council confirming the same, and of the objections filed by the appellant aforesaid; all certified by the recorder to be true copies, within ten (10) days after taking such appeal, the expense of which copies shall be paid in the first instance by the appellant. The cause shall be docketed by the clerk in the name of the person taking such appeal against the city of Austin, as an appeal from assessments. The cause shall then be at issue in such 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 the district court as all other civil causes, except no pleadings shall be required, and on the trial the only questions to be passed upon shall be whether the said commissioners had jurisdiction in said case, and whether the valuation of the property specified in the objections is a fair valuation, and the assessment of damages, so far as it affects said property, is fair and impartial. The judgment of said court shall be either to confirm or annul said assessment, in so far as the same affects the property appropriated aforesaid of said appellant, 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 any sum not exceeding thirty-five (35) dollars; otherwise no cost shall be recovered by either party.

SEC. 5. Whenever an award of compensation and damages shall be confirmed by the common council and not appealed from, and whenever the same, when appealed from, shall not be set aside by the court, the same shall constitute a lawful and sufficient condemnation, and appropriation to public use of the land and property rights in property for which compensation of damages are so awarded, and the common council shall thereupon cause to be paid from the general fund of said city, or from such other fund as to which the same may be properly chargeable, to the owners of such property the amount awarded to each severally, but before the payment of such award the owner of such property, shall furnish an abstract of title title to such property, showing himself entitled to the compensation or damages claimed. In case such payment is not made within one (1) year after the confirmation of such award or determination of appeal thereupon, the proceedings shall be deemed to be abandoned. In case of neglect to furnish the abstract of title as aforesaid, or there shall be any doubts as to who is entitled to such compensation or damages, or any part of the same, the amount so awarded shall be appropriated and set apart in the city treasury for whoever shall be entitled thereto, and paid over whenever any person shall show clear title to the property and right to receive the same. The common council may, at its discretion, require of such claimant a bond, with good and sufficient sureties, conditioned to indemnify the city against all claims for such compensation or damages so awarded, or for the property for which the same was awarded, and all costs and expenses that may be incurred on account of such claims. Upon the payment of said award or appropriation, and upon setting apart in the city treasury of the money to pay the same as aforesaid, the city shall become vested with the title to the property so taken or condemned absolutely for all the purposes for which the city shall or may ever have occasion to use the same and may forthwith enter upon the use of the same. This section shall apply to all cases of appropriation of private property for public uses provided in this chapter.

SEC. 6. Whenever the common council shall vote to lay out, grade or open any new street or alley, or to straighten, widen, grade, or extend any street or alley that now or hereafter may

exist, which shall make it necessary to take, injure or interfere with private property, it shall determine and designate in a general way, as nearly as may be convenient, the character and extent of the proposed improvement, showing the course, character and extent of the same, and the property, necessary to be taken or interfered with thereby, with the name of the owner of such property so far as known, and such statement as in the opinion of the city surveyor, may be proper to explain such plat or survey, and his estimate of the cost of such improvement; and the common council may cause said plat and survey to be amended, modified or changed, as it may deem proper, and shall estimate and fix upon the cost of making such improvement.

When such plat and survey shall be finally adopted by the common council, it shall be filed with the city recorder, and it shall be held to show correctly the character and extent of such improvement actually agreed upon and ordered by said common council. Said plat shall also show the amount of land to be taken from each owner, so far as known, and the lands contiguous to and affected by such improvement. The common council shall then or afterwards, appoint three (3) freeholders of said city, no two (2) of whom shall reside in the same ward, as commissioners to view the premises and ascertain and award the amount of damages and compensation to be paid the owners for property to be taken or injured by such improvements, and to assess the amount of such damages and compensation and the expense of the improvements upon the lands and property to be benefited by such improvement, and proportion the benefits to be secured to each parcel of lands benefited thereby, without regard to cash valuation. Two (2) or more of such commissioners shall constitute a quorum, and be competent to perform any duty required by such commissioners, and they shall be notified of their appointment, and vacancies in their number filled in the same manner, and shall take the same oath and be subject to the same penalties for refusal or neglect to perform their duties, as provided for commissioners under section four (4) of this chapter. Such commissioners shall give such notice and proceed in the same manner to view, hear and determine the damages and compensation to be paid to the owners of such property, and report their award to the common council in the same manner as required by section four (4) of this chapter; *Provided, however,* That the said commissioners, in considering and awarding compensation and damages, shall also consider, estimate and offset the benefits which will accrue to the same owners from such improvements in respect to the remainder of such property, and only award him the excess, if any, as compensation or damages. The commissioners shall then assess the amount of such compensation and damage so awarded, together with the costs of making such improvements, upon the land and property benefited by such improvements, in proportion to such benefits; but in no case shall the amount so assessed exceed the actual benefits to the lot or parcel of land so assessed, deducting therefrom the damages or injuries to the same parcels which are less than such benefits, and assessing only the excess, and

prepare and report to the common council their appraisalment and award. And if, in the judgment of such commissioners, the whole amount of such compensation and damages together with the cost of making such improvement, shall exceed the actual benefit to the specific property subject to assessment, they shall so indicate in their report, and shall state the amount of such excess. Said commissioners shall also report to the common council an assessment list, containing their assessment of such compensation, damage and expense of such improvement, or so much thereof as shall not exceed the actual benefit to the property so assessed, the name of the owners thereof, if known, and the amount assessed as such compensation, damages and costs of such improvements aforesaid, which they shall return as unassessed. The common council shall proceed to consider, confirm or annul or recommit such reports, and provide for like proceedings upon such reports as are provided for in section four (4) of this chapter. Whenever the common council shall confirm any such award and assessment, such confirmation shall make such award and assessment final and conclusive upon all parties interested, except as herein provided; and the common council shall proceed to levy such assessment upon the several parcels of land described in said assessment list reported by said commissioners, in accordance with the assessment so confirmed, which said assessment shall become a prior lien upon such parcels of land, and cause to be made out and adopted an assessment roll of the same, which may be in the following form:

The common council of the city of Austin 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 to defray the compensation and damages awarded for the taking and injury to private property and costs of improvements on and about the, as shown by the plat and survey of the same now on file in the office of the city recorder of said city. This levy is made conformable to the report and assessment of commissioners duly appointed to make such assessment, and in proportion to the benefits accruing from such improvements to accrue to the parcels, and not exceeding the benefits to the parcels so assessed.

Owners' Name.	Description.	Lot.	Block.	Amount	
				Dollars.	Cts

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

Attest:
 [L. S.] Mayor.
 City Recorder.

SEC. 7. Any person whose property is proposed to be taken, interfered with or assessed for benefits under the provisions of the preceding section, who deems himself aggrieved by such proceedings may appeal to the district court in and for the county of Mower, as provided for in section four (4) of this act. All commissioners appointed under the provisions of this chapter shall receive compensation at the rate of three (3) dollars per day, to be paid out of the general funds provided for the current expenses of the city.

SEC. 8. Whenever the common council shall determine to cause to be paved any street, lane or alley in said city, or any gutter or gutters along such street or alley, or to lay, relay or extend any sewers or water mains along such street or alley, or any portion thereof, it shall designate in a general way, as nearly as convenient, the character and extent of such improvements and the materials to be used therein; and thereupon it shall be the duty of the city surveyor to make and present to the common council an estimate of the cost of such improvements, stating therein the proportion of such cost which shall be required to construct such improvements in front of abutting lands, which cost in case of sewers shall not exceed the cost of ordinary sewers in front of such abutting lands, or in case of water mains the cost of six (6) inch mains and the proportion thereof to construct the same across streets and alleys, and in front of lands not subject to assessment, and also a list of the several lots and parcels of lands fronting upon such proposed improvements, with the number of feet front of each extending along such improvements, and the name of the owners of the several parcels as near as may be. A brief mention of the reception of such report shall be made and published in the records of the proceedings of the common council, which shall be held to be sufficient notice to all persons concerned, and such report shall lie over until the next stated meeting of such council occurring more than one week after such publication; but the common council, in its discretion, may direct the city recorder to advertise and receive bids in the meantime for doing the work and furnishing the material required to construct such improvements and report the same to the council at the meeting of the council to consider such reports, or to any subsequent meeting of the same; the common council may consider such estimates and, under such rules as it may adopt, hear and consider any objections to such improvements; and the common council may adhere to its resolutions to make such improvements, or alter, or modify it. If the common council shall determine to go on with such improvements, whether modified or not, it may either before or after having contracted for the construction of such improvements, estimate and fix the cost of such improvements and the proportionate amount of such cost which is required to construct such improvements, not exceeding in case of sewers the cost of ordinary sewers and in case of water mains not exceeding a six (6) inch main, and when larger sewers or water mains are needed it may assess and levy such proportion or amount of such costs upon the same lots and parcels of land upon a basis of an equal sum per front foot of each lot or parcel of land running along the line of such improvements, and the common

council shall cause to be made and adopt an assessment roll thereof which may be in the following form, and such assessment shall be a lien upon the land so assessed:

The city of Austin doth hereby assess and levy upon and against the several lots and parcels of land below described, the respective sums set opposite each lot or parcel. This assessment is levied to pay the expenses of the city of Austin along and said lots and parcels of land are assessed upon the basis of an equal sum per front foot along the line of such improvements.

Owner's Names.	Description.	Lot.	Block.	Amount.	
				Dollars.	Cts.

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

Attest: Mayor.

..... City Recorder.

SEC. 9. The common council may, in its discretion, in case where any lot, fronting on two streets, has been previously assessed, and the assessment paid, for laying sewer pipes or water mains upon a different street from the one through which the proposed improvement is to be extended, remit the assessment from such corner lot, such portions of the second (2nd) assessment, not exceeding the amount of assessment for a frontage of fifty (50) feet on such lot, as it may deem just; but the discretion of the common council in such matter shall be final, and the refusal or failure of said council to make such remittance shall not be ground for setting aside such assessment in any court or proceeding.

SEC. 10. Whenever the common council shall have ordered the construction of any sidewalk, and the owners of the land along such sidewalk shall refuse or neglect for the space of two (2) weeks to construct the same according to the order of the common council; the street commissioner shall report to the common council a description of each lot or parcel of land along which such sidewalk has not been built, and his estimate of the cost of building the same; such estimate shall not be binding upon the common council, but advisory merely, and the council may obtain other information as to cost, and the council shall fix and designate the cost of building such sidewalk in front of each lot or parcel of land, and thereupon the common council shall assess and levy upon and against such lot and parcel of land so reported (after correcting mistakes, if any) along which said sidewalk has not been built, such sum as will cover the cost of building such sidewalk along such lots and parcels of land respectively, and cause to be made an assessment roll of the same, which shall be in the following form:

The common council of the city of Austin 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 costs of..... sidewalks along the..... side of..... from..... to..... in accordance with a resolution of the common council passed the..... day of..... 18.., and published in the official paper of said city on the..... day of..... 18..; the amount levied and assessed upon each lot or parcel being the amount necessary to build such sidewalk along and fronting upon such lot or parcel.

Owners' Names.	Description.	Lot.	Block.	Amount.	
				Dolls.	cts.

Done at a meeting of said common council this..... day of..... 18..

Attest:

.....
City Recorder.

.....
Mayor.

Provided, That nothing in this act contained shall authorize the common council to assess and levy upon and against any parcel of land not platted and subdivided into lots, the cost of building sidewalks along such land; but in such cases, the cost of building any sidewalk in front of property not platted and subdivided into lots shall be paid out of the general fund.

SEC. 11. Assessments for repairs of sidewalks may be in the following form:

The common council of the city of Austin 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 commissioners since the..... day of..... 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.	Description of Lots.	Lot.	Block.	Amount.	
				Dolls.	cts.

Done at the meeting of said council this day of
 18..

Attest:

.....
 City Recorder.

.....
 Mayor.

SEC. 12. The city recorder shall record all assessment rolls of special assessments in books kept by him for that purpose, and shall on or before the tenth (10th) day of October in each year, deliver to the county auditor of Mower 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 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. 13. No omission, in formality 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 common council; and the assessment roll, and the record thereof, kept by the city recorder 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 recorder to record the assessment roll or 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 [as] material unless it can be clearly shown that the party objecting was materially injured thereby, unless such objections were taken at the time and in the manner prescribed in this chapter.

SEC. 14. In case any special assessment shall, in any suit wherein its validity shall be questioned, be adjudged invalid by the court, the common council may, in its discretion, notify the county auditor to cease the collection of the same, if it shall be 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 recorder before delivering such new assessment to the county auditor shall ascertain and note thereon payments which have been made on such invalid assessments for the same purpose, which notation shall cancel the assessment as to the lots and parcels on which payments were made to the extent of such payment. Such new assessments shall be collected in the same manner as the original special assessment.

SEC. 15. 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 shall happen to be less than the amount required the balance shall be paid

from the current funds 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 common council shall deem most just toward the person upon whom the special assessment was levied, and upon any assessment rolls or [any] other papers being used upon any of the proceedings it shall not be necessary that words be written out in full, but abbreviations, letters, figures and other recognized 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. 16. It shall require a two-thirds ($\frac{2}{3}$) vote of all the members elected of the common council to determine in the first (1st) instance to make any improvements for which special assessments may be levied, except in respect to sidewalks, when a majority vote shall suffice; but this restriction shall not apply to any subsequent action of said common council touching such improvements to provide means therefor.

SEC. 17. Any improvement, the means to make or construct which may be raised by special assessment, may be performed by contract, let in the ordinary way, or directly by the city, by the employment of labor and purchase of material, or in any manner which the common council may deem proper in each particular case; and the common council may, in its discretion, in any case, instead of causing the special assessments to be made entirely upon estimates as hereinbefore provided, wait until receiving bids for the contract before determining and fixing the cost of such improvement or appointing commissioners to fix the assessment; but no bid shall be taken as a basis for an assessment which is not accompanied with a bond, with good and sufficient sureties, in a penal sum equal to half ($\frac{1}{2}$) the amount of the contract price bid, conditioned that, should the common council award the contract to such bidder, that he will accept and enter into such contract to do the work or furnish the material at the price bid.

SEC. 18. The common council may, at the time of ordering any improvement for which any assessment may be made, may determine whether to proceed at once with such improvement or await the collection of such assessment. In case it shall determine to proceed with such improvement, the money to defray the expenses thereof, shall be advanced out of the 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 improvement interest at the rate of seven (7) per cent per annum from the time of making such improvements until the thirty-first (31st) day of May ensuing, and such interest shall be included in such assessment, and be collected as part of the cost of such improvement.

SEC. 19. In case any assessment is collected before making of such improvement, the money so collected shall be kept separate from the

funds of the city, and not to be devoted to any other purpose than such improvements, and as soon as the majority of the assessments for such improvements are paid, the common council shall forthwith cause such improvements to be made.

SEC. 20. After any special assessment roll shall have been made and adopted by the common 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 treasurer's receipt therefor to the city recorder he shall enter upon such assessment roll opposite the assessment so paid the words "paid to the city treasurer," which entry shall cancel the assessment so paid. In case the 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 therefrom.

SEC. 21. 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. 22. All assessments provided for under the provisions of this chapter shall become a lien upon the lots and parcels of land upon which assessments are made, which said lien shall be a first lien upon such property from the time such assessment roll is adopted by the common council and recorded in the office of the city recorder, and no sale under execution, or other proceedings upon a judgment, decree, foreclosure, or lien, and no transfer or mortgage of such property shall divest or affect the lien of such assessment for any tax or for improvements chargeable as assessment against such property under this charter, although confirmation of such assessment may be subsequent to the lien of such judgment, decree or other lien, or to such transfer or mortgage.

SEC. 23. In all cases when any tract or lot of land, within the boundaries or limits of the city of Austin, is divided in parcels of irregular shape that cannot be described, except by metes and bounds, and cannot be described by government sub-divisions, it shall be the duty of owners of such tracts, upon the order of the common council, to have such land platted into lots—if such plat cannot be made without an actual survey of the land, then they shall have the same surveyed—and the plat thereof recorded. If the owners of any such tract shall refuse or neglect to cause such plat, and survey when necessary, to be made and recorded, within thirty (30) days after such order, the city surveyor, upon request of the common council shall make out such plat from the records of the register of deeds, if practicable, but if it cannot be made from such records, then he shall make the necessary survey, and the plat thereof and designate such tract or parcel of land as Out Lot No. . . . and each piece or tract of land so surveyed and platted into a lot or lots shall be consecutively numbered, and the common council shall have the same recorded by the register of deeds of Mower county, whose duty it shall be to record the same. Such plats being duly certified and recorded, the

description of the property in accordance with the number and description set forth in such plat shall be deemed a good and valid description of the lots or parcels of land so described. When the owners of such land fail to comply with the provisions of this section, the costs of surveying, platting and recording shall be paid by the city from the improvement fund, and the amount thereof shall be added to the tax upon such tracts or lots, the next ensuing year, which tax, when collected, shall be credited to the improvement fund.

CHAPTER 11.

MISCELLANEOUS PROVISIONS.

SECTION 1. All ordinances and resolutions heretofore made and established by the common council of the city of Austin, and not inconsistent with provisions of this act, shall remain in force, except as altered, modified or repealed, and except as may be hereafter modified or repealed by the common council, and all books or pamphlets published, or that may hereafter be published, purporting upon their title page to be published by the authority of said common council and purporting to contain the ordinances of said city, standing rules of said common council, or either, are hereby declared to be competent *prima facie* evidence of the contents of such ordinance, standing rules and orders, or of any resolutions or other matters purporting to be the act of said common council which may be found printed thereon, and of due adoption, approval and publication thereof.

SEC. 2. The common council may from time to time provide for the compilation and publication of the ordinances of said city and such resolutions as may be designated, and for the distribution or sale of copies of such compilation, in its discretion, and may also provide for exchange of such printed copies with other cities.

SEC. 3. No person shall be an incompetent judge, justice, witness, or juror, by reason of his being an inhabitant of said city, in any proceeding or action in which said city is a party interested.

SEC. 4. The said city may lease, purchase and hold real estate sufficient for the convenience of the officers and inhabitants thereof, and may sell and convey the same, or any other property or franchises belonging to the said city, and the same shall be free from taxation while so held by the city; *Provided*, No real estate shall be sold without the concurrence of all the members of the common council, and no franchise shall be granted to any party or corporation without the concurrence of two-thirds ($\frac{2}{3}$) of all the aldermen of said city; and until notice has been given in the official papers of the city, that such franchise is asked for, at least two (2) weeks prior to the granting of such right.

SEC. 5. No law of the state containing the provisions of this act shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in such act.

SEC. 6. When any suit or action shall be commenced against the city, service thereof, may be made by leaving a copy of the process by

the proper officer with the mayor, and it shall be the duty of the mayor to forthwith inform the common council and the city attorney thereof, or to take such other proceedings as the council may direct by ordinance or resolution.

SEC. 7. All actions brought to recover any penalty or forfeiture under this act, or the ordinances or by-laws of the city, or police or health regulations of the city, shall be brought in the corporate name of said city.

SEC. 8. In all prosecutions for any violation of this act, or of any ordinance or by-law of the city of Austin, the first (1st) process shall be by warrant on complaint being made. *Provided*, That no warrant shall be necessary in any case of the arrest of any person or persons while in the act of violating any law of the state of Minnesota, or ordinance or by-law of the city of Austin, but the person or persons so arrested may be proceeded against, tried, convicted and punished, or discharged in the same manner as if the arrest had been made by warrant, and in all cases of penalty of fine or the rendering of judgment by a justice of the peace of said city, pursuant to any statute of the state of Minnesota, or the ordinances of said city of Austin as a punishment for the violation of such statute or ordinance the said offender shall be forthwith committed to the city prison, or if there be no suitable city prison, then to the common jail of Mower county for a term not exceeding three (3) months, unless said fine be sooner paid, and from the time of the arrest of such person for any offense whatever until the trial of such person so arrested, they may be imprisoned in the city prison, or if there shall be no suitable city prison, then in the common jail of said Mower county. All warrants, process or writs by the justice of the peace for the violation of any ordinance and by-laws of said city shall be directed to the sheriff of Mower county, or the chief of police, or any police officer, or constable, of the city of Austin; and the style of all process shall be "The State of Minnesota." It shall be a sufficient pleading of the by-laws, or ordinances of said city in any court of this state to refer to the number or the by-law, or ordinance, and the date of its passage, and giving it in evidence under the complaint. In cases of prosecution for a breach or violation of any ordinance, by-law or regulation of said city, or its charter, no change of venue shall be granted; and no appeal shall be allowed when the judgment or fine imposed, exclusive of costs, for the breach or violation of any by-law or ordinance does not exceed fifteen (\$15) dollars.

SEC. 9. The city of Austin shall not be liable in any case for the board, sheriff's fees or jailer's fees of any person who may be committed to the jail of Mower county under the laws of this state.

SEC. 10. No penalty or judgment-recovered in favor of the city shall be remitted or discharged, except by vote of two-thirds ($\frac{2}{3}$) of all the members of said common council; but nothing in this section shall be construed to prohibit any court from suspending the execution of sentence in its discretion.

SEC. 11. No city officer or employe of the city shall sell, dispose of, or convert to his own use any city property in his charge without

special authority from the common council, and the said council shall by ordinance cause all officers having under their control any tools or other city property to make out a list of such tools or city property and file the same with the city recorder, and to account for such property from time to time as it in its discretion may think proper.

SEC. 12. All fines, penalties, judgments and moneys (except officer's fees), that may be imposed, levied or collected by the justices of the peace, or that may be collected by any other officers of said city, for any violation of any by-law or ordinance of said city, or of any of the laws of the state of Minnesota, shall be vested in and be the sole and exclusive property of said city.

SEC. 13. Notwithstanding the supercedure or repeal by this act of the act incorporating the city of Austin, and acts amendatory thereof, it is not intended that any rights vested shall be lost thereby; but in all cases effecting past taxes not yet collected, liens for the same, rules of evidence and rights of every kind inchoate or perfected, the provisions of such acts as are hereby suspended or repealed, and of all ordinances passed by the council of said city shall be deemed to continue in force.

SEC. 14. All accounts, claims or demands, of every kind whatsoever, against the city of Austin, shall first be presented to the common council of said city for their consideration and disposal, as to them shall appear just or lawful, before any suit, or action at law based upon such account, claim or demand, shall be commenced or prosecuted against said city.

SEC. 15. All moneys belonging to the city of Austin, including license money and fines, shall be paid in the first (1st) instance to the city treasurer, who alone is authorized to receipt therefor.

SEC. 16. This city charter shall be a public act and need not to be pleaded in any case, or action, or proceeding, in any of the courts of this state.

SEC. 17. All acts and parts of acts inconsistent herewith are hereby repealed, and this act shall take effect and be in force from and after its passage.

Approved Feb. 19, 1887.

CHAPTER 25.

[S. F. 397.]

AN ACT TO INCORPORATE THE CITY OF CHATFIELD.

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

SECTION 1. That all the territory in the counties of Fillmore and Olmsted embraced in the following boundaries, to-wit: The south one-half ($\frac{1}{2}$) of section thirty-one (31) in town one hundred and five (105), north, range eleven (11) west, in Olmsted county, Minnesota, and the east one-half of section six (6) in town one hundred and four (104), north, range eleven (11), west, and the east one-half ($\frac{1}{2}$), of