

ORDINANCE NO. 584

AN ORDINANCE AMENDING CHAPTERS 1 THROUGH 14,
OF THE AUSTIN CITY CHARTER

The Charter Commission of the City of Austin, Minnesota, pursuant to the provisions of Minnesota Statutes Section 410.12, Subd. 7, recommended that Chapter 1 through 14 of the Austin City Charter be amended as hereinafter set forth and it was recommended to the City Council of the City of Austin that said Charter amendments be enacted by ordinance as provided in Minnesota Statute Section 410.12, Subd. 7.

Pursuant to statute, a public hearing was held on said proposed amendments to the Charter.

The Common Council of the City of Austin do ordain:

Section 1. Chapters 1 through 14 of the Austin City Charter are hereby amended by striking said Chapters in their entirety and substituting in lieu thereof the following amended Chapters 1 through 14.

Amendment No. 1:

CHAPTER 1: CITY AND WARD BOUNDARIES

**Section 1.01 INCORPORATION; NAME OF CITY; GENERAL POWERS;
CONSTRUCTION**

A. Incorporation and Name of the City. All that part of the County of Mower, State of Minnesota, within the limits and boundaries hereinafter described, shall be a city, and the inhabitants thereof shall be and form a municipal corporation under the name and style of the City of Austin.

B. General Powers. The City shall have all powers which it may now or hereafter be possible for a municipal corporation in this State to exercise in harmony with the constitutions of this state and of the United States. It is the intention of this Charter that every power which the people of the city might lawfully confer upon themselves as a municipal corporation, by specific enumeration in this Charter, shall be deemed to have been so conferred by the provisions of this section.

C. Construction. The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in this Charter, or an amendment thereof, shall not be construed as limiting in any way the general powers stated in this article.

Section 1.02 BOUNDARIES OF CITY

The City of Austin, Minnesota shall continue to be a municipal corporation under that name and with the same boundaries as now are or hereafter may be established.

Section 1.03 WARDS

A. The city is divided into three separately numbered wards. Review of the ward boundaries must be made by the council, and the wards reapportioned by ordinance, no later than two years after the year in which a federal census is taken so that the populations of the wards are as equal as practicable. A ward must be composed of compact and contiguous territory. A change in ward boundaries does not disqualify a ward council member from serving the remainder of a term. If the council does not reapportion the wards within the period prescribed, the mayor and council members may not be paid salary or other benefits until the wards of the city are reapportioned. The wards of the city are those described by ordinance on the effective date of this Charter.

B. All officers of the city whose appointment is required by the provisions of this Charter may serve out the term for which they are appointed or elected despite the change in ward boundaries above set forth.

Amendment No. 2:

CHAPTER 2: ELECTIONS

Section 2.01 MUNICIPAL PRIMARY ELECTION

A municipal primary election shall be held on the same day as the State of Minnesota primary election. When not more than two persons file for an elective office, said two persons shall not be placed on the primary ballot; rather, they shall automatically qualify to be placed on the ballot for the regular municipal election.

Section 2.02 REGULAR MUNICIPAL ELECTION

A regular municipal election shall be held on the first Tuesday after the first Monday in November of each even-numbered year commencing in 2010 at such place or places as the city council may designate. The city clerk shall give published notice as required by state statute.

Section 2.03 SPECIAL ELECTIONS

The council may by resolution order a special election and provide all means for holding it. The clerk shall give the required published notice of a special election. The procedure at such election shall conform as nearly as possible to that prescribed for other city elections.

Section 2.04 FILING FOR OFFICE

During the timeframe delineated by Minnesota statute, any voter of the city qualified under the state constitution for elective office may, by filing an affidavit and paying a filing fee of \$25.00 to the city clerk, have his/her name placed on the municipal primary ballot or, if there is no primary election, on the municipal election ballot.

Section 2.05 PROCEDURE OF ELECTIONS

Subject to this Charter and applicable state laws, the council may by ordinance further regulate the conduct of municipal elections. Except as otherwise provided by this Charter and supplementary ordinances, general state laws on elections shall apply to municipal elections.

Section 2.06 EFFECT OF FAILURE TO HOLD ELECTION, ETC

Should there be a failure by the people, for any cause, to hold any city election at the time or in the manner hereinbefore prescribed, or to elect any officer herein required to be elected on the day designated, the city council may order a new election to be held, fourteen days notice of the time and place being given, by publishing the notice thereof in the official city paper, and by posting thereof in three of the most public places in the city; provided, that no failure of the city clerk to give the notice of election specified herein shall in any manner invalidate any general election.

Section 2.07 INITIATIVE, REFERENDUM AND RECALL

A. POWERS RESERVED BY THE PEOPLE. The people of Austin reserve to themselves the powers, in accordance with the provisions of this Charter, to initiate and adopt any ordinance, except an ordinance appropriating money or authorizing the levy of taxes; to require any ordinance when passed by the council to be referred to the electorate for approval or disapproval; and to recall elected municipal officers. These powers shall be called the initiative, the referendum, and the recall, respectively.

B. EXPENDITURES BY PETITIONERS. No member of any initiative, referendum, or recall committee, no circulator of a signature paper, and no signer of any such paper, or any other person, shall accept or offer any reward, pecuniary or otherwise, for service rendered in connection with the circulation thereof, but this shall not prevent any such committee from incurring an expense for legal advice, stationery, copying, printing, and notaries' fees. Any violation of the provisions of this section shall constitute a misdemeanor.

INITIATIVE

C. INITIATION OF MEASURES. Any five electors may form themselves into a committee for the initiation of any ordinance except an ordinance appropriating money or authorizing the levy of taxes. Before circulating the petition referred to in Section 2.07, D, such electors shall file a copy of the proposed ordinance with the city clerk together with their names

and addresses of such committee. Such electors shall also attach a copy of the proposed ordinance to each of the signature papers herein described, together with their names and addresses as sponsors thereof.

D. FORM OF PETITION AND OF SIGNATURE PAPERS. The petition for the adoption of any ordinance shall consist of the ordinance, together with all signature papers and affidavits thereto attached. Such petition shall not be complete unless the signature papers have been signed by a number of voters equal to at least 10 percent of the total number of electors who cast their votes at the last preceding regular municipal election. The signatures need not be on one signature paper, but the circulator of every signature paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. Each signature paper shall be in substantially the following form:

Initiative Petition

proposing an ordinance to _____ (stating the purpose of the ordinance), a copy of which ordinance is hereto attached. This ordinance is sponsored by the following committee of electors:

NAME	ADDRESS
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

The undersigned electors, understanding the terms and nature of the ordinance hereto attached, petition the city council for its adoption, or in lieu thereof, for its submission to the electors for their approval.

NAME	ADDRESS
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

At the end of the list of signatures shall be appended the affidavit of the circulator that each signature appended to the petition is the genuine signature of the person whose name it purports to be.

E. FILING OF PETITIONS AND ACTION THEREON. The petition shall be filed in the office of the city clerk as one instrument. Within 20 days after the filing of the petition, the city clerk shall ascertain by examination the number of electors whose signatures are appended

thereto and whether this number is at least 10 percent of the total number of electors who cast their votes at the last preceding regular municipal election. If the city clerk finds the number of such signatures is less than 10 percent of the total number of electors who cast their votes at the last preceding regular election, he/she shall at once notify one or more of the committee of electors of that fact, certifying the reasons for his/her finding. The committee shall then be given 30 days in which to file additional signature papers. If at the end of that period the petition is found to still lack the required signatures, the clerk shall file it in his/her office and shall notify each member of the committee of electors of that fact. The final finding by the clerk of the insufficiency of the required number of signatures shall not prevent judicial review of the clerk's determination, shall not prejudice the filing of a new petition for the same purpose, nor shall it prevent the council from referring the ordinance to the electors at the next regular or any special election at its option.

F. *ACTION OF COUNCIL ON PETITION.* When the petition is found to be sufficient, the city clerk shall submit it to the council at its next meeting, stating the number of petitioners and the percentage of the total number of voters which they constitute, and the council shall at once read the ordinance and refer it to an appropriate committee, which may be a committee of the whole. The committee or council shall thereupon provide for public hearings upon the ordinance after the holding of which the ordinance shall be finally acted upon by the council not later than 65 days after the date upon which it was first submitted to the council by the city clerk. If the council fails to pass the proposed ordinance or passes it in a form different from that set forth in the petition and unsatisfactory to the committee of electors, the proposed ordinance shall be submitted by the council to the vote of the electors at the next regular municipal election; but if the number of signers of the petition is equal to at least 25 percent of the total number of voters voting at the last preceding regular municipal election, the council shall call a special election upon the measure. Such special election shall be held not less than 30 nor more than 120 days from the date of final action on the ordinance by the council or after the expiration of 65 days from the date the ordinance was first submitted to the council by the clerk when there has been no final action; but if a regular election is to occur within 120 days, the council may submit the ordinance at that election. If the council passes the proposed ordinance with amendments and at least four-fifths of the committee of electors do not express their dissatisfaction with such amended form by a statement filed with the city clerk within 10 days of the passage thereof by the council, the ordinance need not be submitted to the electors.

G. *INITIATIVE BALLOTS.* The ballots used when voting upon any such proposed ordinance shall state the substance of the ordinance and shall give the voters the opportunity to vote either yes or no on the question of adoption. If a majority of the electors actually voting on any such ordinance vote in favor of it, it shall thereupon become an ordinance of the city. Any number of proposed ordinances may be voted upon at the same election but the voter shall be allowed to vote for or against each separately. In case of inconsistency between two initiated ordinances approved at one election, the one approved by the higher percentage of electors voting on the question shall prevail to the extent of the inconsistency.

H. *REPEAL OF ORDINANCE ADOPTED THROUGH INITIATIVE PROCESS.* Any ordinance adopted by the electorate may be repealed only by vote of the electorate at a regular or special election in accordance with a resolution adopted by a two-thirds vote of the council or in accordance with petitions duly filed as required herein for the adoption of such ordinance.

I. *INITIATION OF CHARTER AMENDMENTS.* Nothing in this charter shall be construed as in any way affecting the right of the electors under the Constitution and statutes of Minnesota to propose amendments to this Charter.

REFERENDUM

J. *THE REFERENDUM.* Except for emergency ordinances as defined in Section 2.07 N, no ordinance passed by the city council shall take effect until seven days after such ordinance is published as provided in Section 4.02 of the City Charter. During such seven-day period, a statement signed by any 30 electors of “Intent to Petition for Referendum” may be filed with the city clerk. The effect of filing such statement shall be to prevent such ordinance from becoming effective until 30 days after such ordinance would otherwise have become effective. If such a statement of “Intent to Petition for Referendum” is filed, and if before the date when the ordinance takes effect, a petition signed by qualified electors of the city equal in number to 10 percent of the total number of electors who cast their votes at the last preceding regular municipal election is filed with the city clerk requesting that such ordinance be repealed or be submitted to a vote of the electors, the ordinance shall thereby be prevented from going into operation. The council shall thereupon reconsider the ordinance at its next regular meeting, and by yea and nay vote either repeal it or reaffirm its adherence to the ordinance as passed. In the latter case, the council shall submit the ordinance at the next regular municipal election, pending which the effectiveness of the ordinance shall remain suspended. Provided, however, the council may, in its discretion, order that a special election be held on the ordinance.

K. *REFERENDUM PETITIONS.* The requirements laid down in Section 2.07 C and D above as to the formation of committees for the initiation of ordinances and as to the form of petitions and signature papers shall apply to the referendum as close as possible, but with such verbal changes as may be necessary. Each signature paper shall be in substantially the following form:

Referendum Petition

proposing the repeal of an ordinance to _____ (stating the purpose of the ordinance), a copy of which ordinance is hereto attached. The proposed repeal is sponsored by the following committee of electors:

NAME	ADDRESS
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

The undersigned petitioners, understanding the nature of the ordinance hereto attached and believing it to be detrimental to the welfare of the city, petition the council for its repeal or

submission to a vote of the electors for their approval or disapproval.

NAME	ADDRESS
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

L. *FILING OF PETITIONS AND ACTIONS THEREON.* The referendum petition shall be filed in the office of the city clerk as one instrument. Within 20 days after the filing of the petition, the city clerk shall ascertain by examination the number of electors whose signatures are appended thereto and whether this number is at least 10 percent of the total number of electors who cast their votes at the last preceding municipal election. If he/she finds the number of such signatures is less than 10 percent of the total number of electors who cast their votes at the last preceding regular municipal election, he/she shall at once notify one or more members of the committee of electors of that fact, certifying the reasons for his/her finding. The committee shall then be given 30 days in which to file additional signature papers, and during such 30-day period, the effectiveness of the ordinance shall continue to be suspended. If at the end of that 30-day period the petition is found to still lack the required signatures, the clerk shall file it in his/her office, notify each member of the committee of electors of that fact, and the ordinance shall forthwith become effective. The final finding of the insufficiency of the required number of signatures shall not prevent judicial review of the clerk's determination.

M. *REFERENDUM BALLOTS.* The ballots used when voting upon any such ordinance shall state the substance of the ordinance and shall give the voters the opportunity to vote either yes or no on the question of whether the ordinance shall become effective. If a majority of the electors actually voting on the question favor the ordinance becoming effective, it shall go into effect immediately or on the date therein specified. If a majority of the electors actually voting on the question is opposed to the ordinance becoming effective, it shall not become effective.

N. *EMERGENCY ORDINANCE.* As used in Section 2.07 J above, the term "emergency ordinance" means an ordinance which is named as such and is adopted in response to an emergency situation which shall be described in detail in a preamble to the ordinance. An emergency ordinance is effective upon publication and shall remain in effect for the period set forth in the ordinance; provided, however, in no event shall an emergency ordinance remain in effect for more than 60 days. Pursuant to an emergency ordinance, the council may not obligate the city, under contract or otherwise, for a period extending beyond the effective period of the ordinance.

O. *ADOPTION OF AN ORDINANCE REJECTED THROUGH THE REFERENDUM PROCESS.* Any ordinance so rejected by the electorate may be subsequently adopted only by a vote of the electorate at a regular or special election in accordance with a resolution adopted by a two-thirds vote of the city council or in accordance with the initiative process set forth in this

section of the City Charter.

RECALL

P. *THE RECALL.* Any five electors of a ward may form themselves into a committee for the purpose of bringing about the recall of any elected council member for that specific ward. In the case of any other municipal officer who is elected by the people, any five electors within the city may form themselves into a committee for the purpose of bringing about the recall of such official. The committee shall certify to the city clerk the name of the officer whose removal is sought, a statement of the grounds for removal in not more than 250 words and their intention to bring about this recall. The grounds for removal shall be limited to malfeasance or nonfeasance in the performance of official duties. A copy of this certificate shall be attached to each signature paper and no signature paper shall be put into circulation previous to such certification.

Q. *RECALL PETITIONS.* The petition for the recall of any official shall consist of a certificate identical with that filed with the city clerk together with all the signature papers and affidavits thereto attached. All the signatures need not be on one signature paper, but the circulator of every signature paper shall make an affidavit that each signature appended to the paper is the genuine signature of that person whose name it purports to be. Each signature paper shall be in substantially the following form:

Recall Petition

proposing the recall of _____ from his/her office, which recall is sought for the reasons set forth in the attached certificate. This recall is sponsored by the following committee of electors:

NAME	ADDRESS
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

The undersigned electors, understanding the nature of the charges against the officer herein sought to be recalled, desire the holding of a recall election for that purpose.

NAME	ADDRESS
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____

5. _____

At the end of the list of signatures shall be appended the affidavit of the circulator, mentioned above.

R. *FILING OF PETITION.* Within thirty days after the filing of the original certificate, the committee shall file the completed petition in the office of the city clerk. The city clerk shall examine the same within the next 20 days, and if he/she finds that the number of signers is less than 25 percent of the total number of electors who cast their votes in the last preceding regular municipal election, he/she shall so notify one or more members of the committee, certifying the reasons for his/her finding. The committee shall then be given ten days in which to file additional signature papers. If at the end of that time the city clerk finds the petition still lacks the required signatures, he/she shall notify all the members of the committee to that effect and shall file the petition in his/her office. The final finding by the clerk of the insufficiency of the required number of signatures shall not prevent judicial review of the clerk's determination. Under this Section 2.07 R, the authority of the city clerk is limited to determining whether sufficient signatures are appended to the petition. The city clerk shall have no authority to determine the truthfulness of the statement of the grounds for removal submitted by the committee of electors or whether such grounds constitute malfeasance or nonfeasance in the performance of official duties.

S. *RECALL ELECTION.* If the petition or supplemented petition be found to contain a sufficient number of signatures, the city clerk shall transmit it to the council without delay, and shall also officially notify the person sought to be recalled of the sufficiency of the petition and of the pending action. The council shall at its next meeting, by motion, provide for the holding of a special recall election throughout the city or in the ward in question, not less than 30 nor more than 45 days thereafter, provided that if any other regular municipal election is to occur within 60 days after such meeting, the council may in its discretion provide for the holding of the recall election at that time.

T. *PROCEDURE AT RECALL ELECTION.* In the published call for the election, whether posted on bulletin boards or printed in the official paper, there shall be given the statement of the grounds for removal and also, in not more than 500 words, the answer of the officer concerned in justification of his/her course in office. Candidates to succeed the officer to be recalled shall be nominated in the usual way, and the election shall be conducted as far as possible, in accordance with the usual procedure in municipal elections.

U. *FORM OF RECALL BALLOT.* Unless the officer whose removal is sought shall have resigned within 10 days after the receipt by the council of the completed recall petition, the form of the ballot at such election shall be as near as may be: "Shall _____ (insert name of the official whose recall is sought) be recalled from the office of _____?" The electors shall be permitted to vote separately yes or no upon this question. The ballot shall also contain the names of the candidates to be voted upon to fill the vacancy in case the recall is successful, under the caption: "Candidates to fill the place of _____ (insert name of the official whose recall is sought) if recalled." But the officer whose recall is sought shall not himself be a candidate upon such ballot. If a majority of those actually voting on the question shall vote in favor of recalling such official, he/she shall be thereby removed from office, and in that event, the candidate who receives the highest number of votes for his/her place

shall be elected thereto for the remainder of the unexpired term. If the officer sought to be recalled shall have resigned within 10 days after the receipt by the council of the completed recall petition, the form of ballot for the election of a replacement for such resigned official at the election shall be the same, as nearly as may be, as the form in use at a regular municipal election.

V. *WITHDRAWAL OF PETITIONS*. An initiative, referendum, or recall petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the city by filing with the city clerk a request for withdrawal signed by at least two-thirds of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Amendment No. 3:

CHAPTER 3: ELECTIVE OFFICERS-APPOINTED OFFICERS

Section 3.01 COUNCIL COMPOSITION AND QUALIFICATIONS

The elective officers of said council shall be the mayor and seven council members. All officers shall be residents and qualified voters in said city. .

Section 3.02 ELECTION OF COUNCIL MEMBERS

Each ward shall elect two council members, each of whom shall be a resident and qualified voter within the ward for which he or she is elected. There shall also be elected within and for said city one council member-at-large who shall be a resident of said city.

Section 3.03 TERMS OF OFFICE

The official term of all elective officers under the provisions of the Charter shall commence on the first business day in January next succeeding their election, and all officers to be appointed to elective offices by the city council as hereinafter provided shall enter upon the duties of their respective offices at the time specified by the city council. All ward council members shall serve a term of four years. The mayor and council member at large shall each serve a term of two years. All officers will serve until their successors are elected and qualified.

Section 3.04 WHEN OFFICE DEEMED VACANT

Any officer leaving the city or ward for which he/she was elected or appointed, or who shall neglect or refuse for ten days after notice of his/her election or appointment to qualify or enter upon the discharge of the duties of his/her office, shall be deemed to have vacated the same, and the city council shall declare the office vacant and proceed to fill such vacancy as hereinafter prescribed.

Section 3.05 FILLING VACANCIES IN OFFICE

Whenever any vacancy shall occur in any elective or appointive office of said city, excepting that of mayor, which is hereinafter provided for, such vacancy shall be filled by appointment by the city council, which incumbent so appointed shall hold his/her office until the next succeeding election, and until his/her successor is elected and qualified.

Section 3.06 REMOVAL OF OFFICERS

Any elective official may be removed from said office pursuant to the provisions of Section 2.07 of the City Charter.

Section 3.07 OATHS OF OFFICE; BONDS

Every person elected or appointed to any office under this Charter shall, before they enter upon the duties of such office, take and subscribe an oath of office, and file the same, certified by the officer administering the same, shall, before entering upon the duties of their respective offices, be required to execute such bonds to the City of Austin as the city council thereof may direct and approve for the faithful performance of the duties of such office, and such bonds may be increased or diminished at the pleasure of the council. If any officer fails to give the required bond, the city council shall declare the office vacant and proceed to fill the vacancy as herein provided.

Section 3.08 MAYOR

The mayor shall be the chief executive officer of the city and ex-officio president of the city council, but the mayor shall not vote on any question. The mayor shall take care that the laws of the state and the ordinances and regulations of the city are duly observed and enforced within the limits of said city, and that all officers and employees of said city faithfully discharge their respective duties.

The mayor shall have, subject to the ordinances and regulations of the city and the laws of the state, general supervision of all executive departments of the city government, and of all the executive city officers, and of all of the employees of the city, and shall see that they discharge their respective duties properly. The mayor shall, from time to time, give the city council such information and recommend such measures as the mayor may deem advantageous to the city.

All ordinances and regulations shall, before they take effect, be presented to the mayor for his/her approval, and if the mayor approves the same, he/she shall endorse his/her approval upon, and sign the same, and such as he/she shall not approve, he/she shall return to the city council with his/her objection hereto, by depositing the same with the city recorder, to be presented to the city council at the next stated meeting thereof; and upon the return of any ordinance or resolution without the approval of the mayor, to the city council, the vote by which

the same was passed, if it shall be reconsidered, and if, after a reconsideration, it shall be passed by a vote of two-thirds of all of the members of said council, shall have the same effect as if approved by the mayor, and in such case the vote shall be by yeas and nays, which shall be recorded by the designated council secretary. Any ordinance or resolution not returned by the mayor within five days (Sundays excepted) after the same shall have been presented to him/her, shall have the same effect as if approved and signed by the mayor. The mayor shall countersign all orders and warrants drawn upon the finance director for the payment of money.

The mayor shall possess such further powers and perform such further duties as may be conferred or prescribed by this Charter, or by the city ordinances or regulations, duly passed and adopted in pursuance thereof, or by the general laws of this state.

Section 3.09 ACTING MAYOR

In case of vacancy in the office of mayor, or in case of the absence of the mayor from the city, or by reason of his/her inability through sickness or other cause to perform the duties of the mayor's office, the council member-at-large, or if he/she is also absent or incapacitated from acting, then such member of said council as the council may by vote designate, shall, during such absence or disability, exercise the powers and perform the duties of the mayor, and while so acting shall be titled "acting mayor", and his/her acts in that capacity shall have the same force and validity as if performed by the mayor.

Section 3.10 CITY RECORDER

There shall be a city recorder who shall have those duties as the city council may create by ordinance or resolution and such other duties as are authorized by this Charter. The office of city recorder may be combined with that of the finance director by resolution of the city council. The city recorder shall have the custody of the corporate seal and of all papers and records of the city, attend all meetings of the city council and keep a correct record of all its proceedings, and of all rules, ordinances and regulations which it may adopt or pass, in suitable books kept for that purpose. The city recorder shall have authority to administer oaths, and certify deeds and other instruments in all cases in which the same are required or sanctioned by law. The city recorder shall keep office at the place of meeting of the city council, and the same shall be kept open at all reasonable hours as determined by the city council, and all records and files of the office shall be open to the inspection of the public. Copies of all papers filed in the office and transcripts from all records of the city council, certified under the corporate seal, shall be evidence in all courts as if the original were produced. The city recorder shall file all chattel mortgages, chattel notes and other contracts, and perform all things incident thereto as required by law. The city recorder shall draw and countersign all orders on the treasurer in pursuance of any order or resolution of the city council, and keep a full and accurate account thereof. It shall be the duty of the city recorder to keep regular books of account in which all indebtedness of the city shall be entered, and which shall at all times show the precise financial condition of the city, the amount and number of bonds, orders, certificates or other evidences of indebtedness outstanding and the amount of each which have been paid and redeemed; to countersign all bonds, orders or other evidences of indebtedness to the city, and to keep accurate accounts thereof together with a

complete copy of all such bonds, to whom issued, for what purpose and where payable, and the rate of interest they bear and the date of payment thereof. All claims and demands against the city, before they are allowed by the city council, shall be fully itemized and verified by the oath of the claimant or by some one in the claimant's behalf, and shall be filed in the office of the city recorder. The city recorder shall collect all moneys due the city, except as otherwise provided by this Charter, the general laws of this state, or by resolution and direction of the city council, keeping an accurate account thereof under such regulations as the city council may adopt, and shall within twenty-four hours after receipt thereof, deposit the same with the city treasurer, excepting that when Sundays and legal holidays intervene, the same shall be deposited on the next business day.

It shall be the duty of the city recorder to make to the city council, at the first meeting in each month, a detailed report of the financial condition of the city, and report to the city council annually, at the close of each calendar year, a detailed statement of the receipts and disbursements for the year accompanied by the cancelled vouchers arranged in order for ready examination and reference together with a detailed statement of the outstanding bonded and floating indebtedness showing to whom payable and when due, at such time as may be determined by this Charter.

The city recorder shall also furnish estimates for the purpose of levying taxes as hereinafter required. It shall be the duty of the city recorder to report to the city council promptly and fully in writing, if before the first day of October of any year, it shall appear that the amount expended, or to be expended, chargeable to any city fund, adding thereto the current expenses estimated for the remainder of the fiscal year and chargeable to such fund, shall be equal to three-fourths of the tax authorized to be raised, or revenue estimated for such fund, and shall not countersign any contract chargeable to such fund unless the amount of taxes actually collected be ascertained; and during the remainder of the calendar year shall not countersign any contract, the payment of which shall exceed the revenue actually collected for the fund to which such outlay is properly chargeable. It shall be the duty of the city recorder to 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 city council may direct, and such as are required, by law of clerks of cities or townships in this state, for which compensation is made from state or county treasury; such service shall not be regarded as service for the city, and the compensation received therefore shall not be regarded as a part of the salary as city recorder.

The city recorder shall perform such other duties as may be presented herein or may hereafter be prescribed by ordinance or resolution of the city council.

Section 3.11 CITY ATTORNEY

The city attorney shall be a person admitted to practice in all courts in this state, at least three years prior to his or her appointment, and shall be the legal adviser of all officers of said city upon all subjects arising by virtue of this Charter and ordinances adopted in accordance therewith. The city attorney shall attend, and prosecute or defend, all suits, actions, or proceedings, either civil or criminal, for and on behalf of said city, or in which the city be a party. The city attorney shall, when required, furnish a written opinion upon any subject, arising

by virtue thereof, submitted by the city council, or any of its committees, or by the mayor, attend the meetings of the city council when requested, draw all contracts and agreements between said city and other parties, and such other legal instruments and papers as may be required in connection with the administration of city affairs, and perform such other professional services as shall properly pertain to the office. The city attorney shall hold office for the term of two years, at the pleasure of the council, and compensation shall be fixed by the city council.

The city council shall have the right and authority to employ additional counsel 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 city attorney when there is none.

Section 3.12 FINANCE DIRECTOR/TREASURER

There shall be a finance director/treasurer who shall have those duties as the council may create by ordinance or resolution and such other duties as are authorized by this Charter. The office of finance director/treasurer may be combined with that of city recorder by resolution of the council. The finance director/treasurer shall be the custodian of, and shall receive, all moneys and funds belonging to the city from whatever source received, including license money and fines, and shall be responsible for the safe keeping and disbursement thereof, and shall keep an accurate and detailed account thereof in such books, and in such manner, as the city council may direct. The finance director/treasurer shall file in the office of the city recorder, on the day of the first stated meeting of the city council in each month, a detailed statement showing the moneys received and paid out on behalf of said city during the preceding month, and the balance on hand, if any, or the overdraft, as the case may be. And the finance director/treasurer shall report to the city council annually, on or before the first regular meeting of the council, in the month of January, in each year, a full detailed statement of receipts and the sources from which received, and a detailed statement of the city orders paid during the calendar year ending with the last day of December in each year, together with the condition of the treasury at such date, which statement shall be filed with the city recorder, and a copy thereof published in some newspaper of the city. The finance director/treasurer's books shall be subject at any and all times to the demand of the city council or any of its committees for inspection. The finance director/treasurer shall pay out moneys only on orders duly drawn upon the office, signed by the mayor and attested by the city recorder, and upon receipt of moneys from any source except directly from the city recorder, shall execute a receipt therefore, in duplicate, filing such duplicate receipt with the city recorder within twenty-four hours thereafter.

The finance director/treasurer shall be appointed by the city council and shall hold office thereafter at the pleasure of the council and compensation shall be fixed by the city council. The office of financial director/treasurer may be combined with that of the city recorder by resolution of the city council. In the event said offices are combined said city recorder-treasurer shall be required to execute only one bond for the faithful performance of the duties of the combined office in such amount as the council shall direct.

The city council may, however, designate by resolution any state or national bank or banks doing business in the State of Minnesota as a depository of the funds of said city. When the finance director/treasurer shall deposit moneys in said designated depository, in accordance

with the terms of said resolution, the finance director/treasurer shall be relieved from further responsibility for their safekeeping because of the insolvency or closing of said depository.

Any municipal funds not presently needed for other purposes may be invested in obligations authorized by the statutes of the State of Minnesota, and acts amendatory thereof and supplementary thereto.

When a bank has been duly designated as a depository of public funds by the city council the rules and regulations governing the securing of said deposits for the city shall be the same as are set forth by general statutes of Minnesota, and acts amendatory thereof and supplementary thereto.

Section 3.13 CITY CLERK

There shall be a city clerk who shall have those duties as the city council may create by ordinance or resolution and such other duties as are authorized by this Charter.

Section 3.14 FIRE CHIEF

There shall be a chief of the fire department who shall have those duties as the city council may create by ordinance or resolution and such duties as may be created by the Civil Service Rules and regulations promulgated by the Fire Civil Service Commission of the City of Austin. The chief of the fire department shall, at the time of appointment, be someone who has experience in fighting fires and managing firefighters. It shall be the duty of the fire chief to promptly attend upon all fire alarms and assume control over, and have the management of, all firefighters and fire apparatus, and require of all the firefighters of the city prompt obedience to orders and efficient work in the fire department. The fire chief shall have charge and supervision of all the fire apparatus of the city and see that it is kept in a safe, proper and convenient condition for use at fires. The fire chief shall, at least once in every three months and as often as the city council may direct, present a report in writing, to the city council, giving in detail the number of firefighters in the department, both volunteer and employed, the condition of all fire apparatus, including fire teams, the number of fires which have occurred, and who of said firefighters have attended said fires, together with the dates thereof, and a statement of the property injured or destroyed, together with the amount of insurance thereon, at the same time, and in the same manner, advising the council of any needed additions to the department, or the apparatus, for the necessities or improvement thereof. In addition to the duties hereinbefore prescribed, it shall also be the duty of the chief of the fire department to observe the building and erection of all buildings, within the fire limits, and of all chimneys and smokestacks in said city, and it shall be the duty of the fire chief, upon observing that any building is being erected within the fire limits, which is not built in strict conformity with the ordinances and requirements of the city, or any chimney or smokestack within the city limits of said city, which is not being built in strict conformity with such ordinances and regulations, or when such building, chimney or smokestack is being so built and erected as to be dangerous in any respect, especially as to fires, or which the fire chief may deem to be dangerous, either in plan or method of construction, to immediately report to the mayor in writing, stating briefly wherein the ordinances and regulations of the city are being violated, and in what respect such erection and construction is

dangerous, together with the name of the person or persons erecting such building, chimney or smokestack, describing the lot, block or parcel of ground whereon the work is being done. The fire chief shall also, from time to time, inspect the buildings, chimneys and smokestacks in said city with a view to ascertaining whether or not such chimneys and connections therewith are safe, and properly and safely made, and for that purpose shall have authority to enter any business place or private residence, in said city, at all reasonable hours, in the day time, and upon making such inspection, report to the mayor, in detail, any defect which may have been discovered, and which, in the judgment of the fire chief, is likely to cause loss or damage by fire. Upon the receipt of such report by the mayor, the fire chief shall immediately call the matter to the attention of the city council, and the city council shall take such action as will remedy any defects, and as the exigencies of the case may require. It shall also be the duty of the fire chief, whenever any building has been damaged by fire in such manner that the walls thereof, if allowed to stand, it will be, or become, dangerous to the public, to take immediate steps to cause such walls to be taken down, or the property guarded and barricaded as the particular case may require, and upon order by the fire chief, in writing, directed to and served upon the owner or the owner's agent, of any such building or buildings, ordering such walls either to be taken down or supported and barricaded, the owner of, or agent for, such property shall immediately comply with such order, and upon failure for twenty-four hours so to do, the fire chief may proceed to do such work as shall be necessary, either in taking down, supporting or barricading such walls, and the cost thereof shall be reported to the city council in detail, and shall become a charge against the property, and shall be taxed thereon in the same manner as is herein provided for the levy of special assessments; provided, that nothing herein contained shall relieve the owner of such property from any damage or injury which may have been caused to any person or property by reason of failure to properly remove, support or barricade such walls or openings, either before or after such notice.

Section 3.15 CITY ENGINEER

There shall be a city engineer who shall have those duties as the city council may create by ordinance or resolution. The city engineer shall be a person skilled in the science of surveying and civil engineering. The city engineer shall possess the same powers in making surveys and plats within the limits of said city, and in certifying to the same, as are by law vested in the county surveyors in this state.

The city engineer shall, under the direction of the city council, unless other provision is made therefore, by said council, superintend all work done by or for the city in which engineering skill is deemed requisite by the council, and shall, when so directed by the city council, draw plans and specifications for all such work, estimate the expense thereof, and when such work is done by contract, shall execute all certificates given to contractors, showing the amount and value of work performed, or the proper performance and completion of the contract. All surveys, profiles, diagrams, specifications and estimates made by the city engineer for the city shall be the property of the city, and shall be filed in the office of the city recorder before any compensation shall be allowed therefore, and shall be there preserved for the inspection of all persons interested; and when plans and specifications drawn, for work to be done for the city by contract or otherwise, shall be required for reference and use in doing the work, the engineer

shall make, or cause to be made, copies of such plans and specifications for that purpose.

Said engineer shall perform such other duties and exercise such other powers as are elsewhere specified in this Charter, or as may from time to time be required or conferred by the city council, or by ordinances of said city, and shall keep office in some convenient place in said city.

Amendment No. 4:

CHAPTER 4: CITY COUNCIL

Section 4.01 COMPOSITION; QUORUM; STYLE OF ORDINANCES

The mayor and council members shall constitute the city council of the City of Austin, and a majority thereof shall constitute a quorum to transact business, but a smaller number may adjourn from day to day and compel the attendance of absent members.

The style of all ordinances shall be, "The City Council of the City of Austin ordains".

Section 4.02 PROCEDURE FOR ENACTMENT OF ORDINANCES

Unless otherwise required by this Charter or state law, all ordinances, regulations, resolutions and bylaws shall be passed by an affirmative vote of a majority of the members of the city council present, by yeas and nays, which shall be entered upon the record of the council, approved by the mayor and attested by the city recorder, and then recorded at length by the designated secretary to the council in a separate book provided for that purpose. All ordinances shall be published at least once in the official paper of the city becoming effective seven days after such ordinance is published.

Resolutions, regulations and bylaws need not be published unless so required by the city council or by the laws of the State of Minnesota, and shall take effect when approved by the mayor and attested by the city recorder.

An ordinance shall not be passed at the first meeting at which it is presented to the city council, except by unanimous consent of all members present, and not then unless two thirds of the members elected are present. An emergency ordinance is an ordinance necessary for the immediate preservation of the public peace, health, safety or welfare. It must be adopted by the affirmative votes of at least five council members and contain a preamble that defines and declares the emergency. The city may not prosecute a violation of an emergency ordinance until 24 hours after the ordinance was either (a) filed with the city clerk and posted in three conspicuous places in the city or (b) published at least once in the official means of the alleged violation. An emergency ordinance is automatically repealed on the 61st day after adoption, but the ordinance may be re-enacted if the emergency still exists.

The following actions of the council shall be effective only if taken by the enactment of an ordinance:

(a) any action which reasonably can be expected to require the direct or indirect expenditure of moneys in the city treasury during any one year period in an amount greater than 10 percent of the annual city budget for the fiscal year in which such action is taken.

(b) any action which legally obligates the City of Austin, under contract or otherwise, for a period greater than five years.

Notwithstanding paragraphs (a) and (b) above, the council may authorize the issuance of bonds and certificates of indebtedness by resolution.

Section 4.03 MEETINGS

The council must meet at the usual time and place for council meetings on the first Monday after January 1 following a regular city election. At that time, the newly elected council members will assume their duties. The council will meet at the times each month established by ordinance. The mayor or four other council members may call a special or emergency council meeting after giving the notice required by law. Meetings of the council are public, except as otherwise permitted by law. Any person may inspect the minutes and records of the meetings at reasonable times.

Section 4.04 JUDGE OF ELECTION; QUALIFICATION, ETC. OF MEMBERS; RULES; CONDUCT

The city council shall be the judge of the election, return and qualification of its members, subject to Section 3.01, and in such case shall have the power to send for persons and paper. It shall determine the rules of its own proceedings.

Section 4.05 RECORD OF PROCEEDINGS

The city council shall keep a record of its proceedings, and the yeas and nays shall be taken, entered and recorded upon a journal or in a format in accordance with state statute.

Section 4.06 BOARDS AND COMMISSIONS

The mayor, by and with the consent of the majority of the city council of the City of Austin, shall appoint the members of any and all boards, advisory boards, or commissions for which the mayor is empowered to make such appointments by the Charter or the ordinances of the City of Austin. Each appointment shall be for a specified term or to fill an unexpired term.

All vacancies existing for any reason upon any board, advisory board, or commission shall be filled by appointment by the mayor, by and with the consent of the city council, with a qualified person within 30 days from the date that such vacancy was created.

A vacancy upon any board, advisory board, or commission shall exist when any member completes an appointed term, or any member vacates or resigns his or her membership. Any member completing, vacating, or resigning his or her terms of membership shall immediately

cease to serve in any capacity as a member of the board, advisory board, or commission.

In order to assist the appointing authority in considering all interested persons for vacancies on any board, advisory board or commission to be filled by appointment, it shall be the duty of the appointing authority:

1. No less than 10 days prior to appointment to fill any such vacancy to cause to be published in a newspaper of general circulation within the city, a notice of the vacancy which shall include a description of the position, term, special qualifications, duties including frequency and length of meetings, compensation, and any other pertinent information.
2. Anyone desiring to be considered for appointment to a position vacated or which will be vacated may submit a written application on the form to be provided by the appointing authority.
3. The applications shall be transmitted to the appointing authority for consideration along with other suitable candidates for such vacant position.
4. Failure to publish such notice shall not invalidate any appointment made to any vacant position.

Section 4.07 DEPARTMENTS OF ADMINISTRATION

The council may create such offices, departments, divisions and bureaus for the administration of the city's affairs as may seem necessary, and alter the powers and organization of the same from time to time. It may enact an administrative code for the city by ordinance and may amend that code from time to time.

Section 4.08 BOARD OF APPEAL AND EQUALIZATION

The council shall constitute the board of appeal and equalization to equalize assessments of property for taxation purposes unless the council transfers such powers and duties to the board of commissioners of Mower County pursuant to state law. The council may appoint a special board of review and may delegate to the special board of review all those powers and duties provided for in state law.

Section 4.09 POWERS AND DUTIES GENERALLY

All powers of the city shall be vested in the council except as otherwise provided by law or this Charter, and the council shall provide for the exercise thereof and the performance of all duties and obligations imposed on the city by law.

Section 4.10 SALARIES

The members of the council, including the mayor, and all employees of the city shall receive such salaries or wages as may be fixed by the council in accordance with the state statutes where applicable.

Section 4.11 OFFICIAL PUBLICATIONS

The council shall annually designate a legal newspaper of general circulation in the city as its official newspaper in which shall be published ordinances and other matters required by law to be so published, as well as other matters as the council may deem to be in the public interest to have published in this manner.

Section 4.12 POWER TO ABATE NUISANCES NOT TO HINDER SUITS, ETC

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

Section 4.13 AUDIT OF ACCOUNTS

The city council shall examine, audit and adjust the accounts of the departments of the city at such times as they may deem proper, and at the end of each year, and before their term of office shall expire.

Section 4. 14 CONTROL OF FINANCES AND PROPERTY

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

**Section 4.15 AUTHORITY TO ACQUIRE AND DISPOSE OF PROPERTY;
CONDEMNATIONS**

The city council shall have power to acquire by purchase, lease, donation, grant or condemnation such private property as may be necessary for public buildings, streets, or grounds for the use of the city and all other necessary purposes in manner as herein provided and as provided by law. The city council may by a two-thirds vote of all members of the council sell, convey and dispose of such real estate as the city may own and which is not needed for municipal purposes.

Section 4.16 PENALTIES FOR VIOLATION OF ORDINANCES, ETC

Fines, penalties and punishments imposed by the city council for breach or violation of any ordinance, law or regulation of said City may extend to a fine and court costs or imprisonment not exceeding the amount or period of time as permitted by Minnesota Statutes for misdemeanor violations.

Amendment No. 5:

CHAPTER 5: TAXATION AND FINANCES

Section 5.01 COUNCIL TO CONTROL FINANCES

The council shall have full authority over the financial affairs of the city and shall provide for the collection of all revenues and other assets, the auditing and settlement of accounts, and the safekeeping and disbursement of public moneys, and in the exercise of sound discretion, shall make appropriations for the payment of all liabilities and expenses.

Section 5.02 FISCAL YEAR

The fiscal year of the city shall be the calendar year.

Section 5.03 SYSTEM OF TAXATION

Subject to the State Constitution, and except as forbidden by it or by state law, the council shall have full power to provide by ordinance for a system of local taxation. This authority includes the power by resolution to assess, levy, and collect taxes on all subjects or objects of taxation except as limited or prohibited by the State Constitution, by this chapter or by laws imposing restrictions upon the city irrespective of Charter provisions.

Section 5.04 SUBMISSION OF THE BUDGET

The finance director shall submit to the council no later than its first regular meeting in September the required annual budget. The budgets shall be in the form prescribed by resolution and other law.

Section 5.05 COUNCIL ACTION ON BUDGET

The annual budget shall be considered at the first regular monthly meeting of the council in September and at subsequent meetings until a budget is adopted for the ensuing year. The meetings shall be so conducted as to give interested citizens a reasonable opportunity to be heard. The council shall also hold a public hearing on the budgets. The council may revise the proposed budgets but no amendment to the budgets shall increase the authorized expenditure to an amount greater than the estimated income. The council shall adopt the budgets by resolution no later than the dates required by the laws of Minnesota. The council shall also adopt a resolution levying the amount of taxes provided in the budgets and the finance director shall certify the tax resolution to the county auditor in accordance with state law.

Section 5.06 ENFORCEMENT OF THE BUDGET

The finance director shall strictly enforce the provisions of the budget. The finance

director shall not authorize any payment or the incurring of any obligation by the City unless an appropriation has been made in the budget resolution and there are sufficient unexpended funds left after deducting the total past expenditures and encumbrances against the appropriation. No officer or employee of the City shall place any order to make any purchase except for a purpose and to the amount authorized in the budget resolution. No check shall be issued or transfer made to any account other than one owned by the City until the claim to which it relates has been supported by an itemized bill, payroll, or time sheet or other document approved and signed by the responsible city officer who vouches for its correctness and reasonableness.

Section 5.07 ALTERATIONS IN THE BUDGET

After the budget resolution has been adopted, the council shall not increase the amounts fixed in the resolution beyond the estimated receipts except to the extent that actual receipts exceed the estimate. At any time the council may, by resolution approved by a majority of its members, revise the sums appropriated for any purpose by the budget resolution or authorize the transfer of sums from unencumbered balances of appropriations in the budget resolution to other purposes.

Section 5.08. FUNDS

There shall be maintained in the city treasury a general fund and such other funds as may be required by statute, ordinance or resolution. The council may, by ordinance or resolution, make interfund loans, except from trust and agency funds, as it may deem necessary and appropriate.

Section 5.09 CITY INDEBTEDNESS

Except as provided in Sections 5.10 and 5.11, no obligation shall be issued to pay current expenses, but the council may issue and sell obligations for any other municipal purpose in accordance with law and within the limitations prescribed by law. Except in the case of obligations for which an election is not required by this Charter or by law, no such obligations shall be issued and sold without the approval of a majority of the voters voting on the question at a general or special election.

Section 5.10 TAX ANTICIPATION CERTIFICATES

At any time after January 1, the council may issue certificates of indebtedness in anticipation of state and federal aids and the collection of taxes levied for any fund and not yet collected. The total amount of certificates issued against any fund for any year with interest thereon until maturity shall not exceed the total of state and federal aids and current taxes due for the fund and uncollected at the time of issuance. Such certificates shall be issued on such terms and conditions as the council may determine and shall become due no later than April 1 of the year following their issuance. The proceeds of the taxes levied and such state and federal aids as the governing body may have allocated for the fund against which the tax anticipation

certificates were issued and the full faith and credit of the City shall be irrevocably pledged for the redemption of the certificates.

Section 5.11 EMERGENCY DEBT CERTIFICATES

If in any year receipts from taxes or other sources should from some unforeseen cause become insufficient for the ordinary expenses of the City, or if any calamity or other public emergency necessitates the making of extraordinary expenditures, the council may by ordinance issue certificates to mature within three years. A tax sufficient to pay principal and interest on certificates with the margin required by law may be levied as required by law. The ordinance authorizing an issue of such emergency debt certificates shall state the nature of the emergency and be approved by a majority of the members of the council. It may be passed as an emergency ordinance.

Amendment No. 6:

CHAPTER 6: STREETS AND SIDEWALKS

Section 6.01 POWER OF CITY COUNCIL GENERALLY

The city council shall have the care, supervision and control of all public highways, streets, alleys, bridges, subways, causeways and public grounds within the limits of said city, and shall have the power to build and keep in repair bridges, elevated railways, subways, causeways, and to lay out, open, grade, curb, alter, vacate, extend, narrow, widen or straighten any public highway, street, alley and public grounds, 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.

Section 6.02 CONSTRUCTION, REPAIR, ETC. OF SIDEWALKS BY ABUTTING PROPERTY OWNERS

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

Section 6.03 VACATING OF STREETS

The council may by resolution approved by at least five members of the council vacate any street, alley, or other public grounds or part thereof within the city. Such vacation may be

made only after published notice and an opportunity for affected property owners and public is heard, and upon such further terms and by such procedures as the council by ordinance may prescribe. A notice of completion of such proceedings shall be filed with the proper county officers in accordance with law.

Section 6.04 PLATS TO BE FILED WITH REGISTER OF DEEDS

Whenever any highway, street, alley, or public ground is laid out, widened, narrowed, enlarged or any of the same are vacated or discontinued under the provisions hereof, the city council shall cause an accurate survey and plat thereof to be made and filed in the office of the Mower County recorder.

Section 6.05 AUTHORITY TO GRANT RIGHT OF WAY OVER STREETS, ETC

The city council shall have the power and authority by a vote of two-thirds of all the members of the council to grant the right of way over and through any of the public streets, highways, alleys and public grounds of said city to Mower County or any other corporation upon such limitation and conditions as they may by ordinance prescribe.

Section 6.06 RESPONSIBILITY FOR GRADING, ETC., SUBDIVISION STREETS

The acceptance of plats of additions, or subdivisions thereof, either within or without the limits of said city, shall not make the city liable to grade the streets therein designated nor responsible for any insufficiency of such streets, unless the city council shall by resolution direct the same to be graded and opened for travel.

Amendment No. 7:

CHAPTER 7: SPECIAL ASSESSMENTS AND EMINENT DOMAIN

Section 7.01 POWER TO MAKE IMPROVEMENTS AND LEVY ASSESSMENTS

The City may make any type of public improvement not forbidden by law and levy special assessments to pay all or part of the cost of such improvements as are of a local character. The total assessments for any local improvement may not exceed the cost of the improvement, including all costs and expenses connected therewith, with interest. No assessment shall exceed the benefits to the property.

Section 7.02 ASSESSMENTS FOR SERVICES

The council may provide by ordinance that the costs of city services to streets, sidewalks, or other public or private property may be assessed against property benefitted and collected in

the same manner as special assessments.

Section 7.03 LOCAL IMPROVEMENT PROCEDURE

When the City undertakes any local improvement to which the state local improvement code applies, it shall comply with the provisions of that law. The council may by ordinance prescribe the procedure to be followed in making any other local improvement and levying assessments therefore.

Section 7.04 POWER TO ACQUIRE PROPERTY

The City may acquire by purchase, gift, condemnation or otherwise any property, corporeal or incorporeal, including easements, either within or without its boundaries, that may be needed by the City for any public purpose. In acquiring property by exercising the power of eminent domain, the City shall proceed according to Minnesota Statute Ch. 117 or other applicable law.

Amendment No. 8:

CHAPTER 8: POLICE

Section 8.01 COMPOSITION OF POLICE FORCE; AUTHORITY OF MAYOR; FILLING VACANCIES

The police force of the city shall consist of the mayor, who shall at all times have supervision of the police of the city, and such other police officers as the mayor shall, by and with the consent of the city council, appoint. Notwithstanding the foregoing, the mayor shall not exercise any powers that are required to be exercised only by a licensed police officer under the laws of the State of Minnesota.

In case of riots, large public gatherings, or disturbances of the peace, the mayor shall provide or appoint as many temporary or special officers as he/she may deem necessary. But such special or temporary appointment shall not continue for more than one week without the consent of the city council.

Whenever a vacancy occurs in a position in the classified service, the mayor shall notify the police civil service commission of the vacancy. The commission shall certify to the mayor and council the three names standing highest on the appropriate eligible list. If two or more vacancies are to be filled in the same class, the commission shall certify two more names than the number of vacancies to be filled. The mayor with the consent of the council shall appoint one person from the names so certified to fill each vacancy.

Section 8.02 DESIGNATION OF OFFICERS; AUTHORITY OF CHIEF OF POLICE

The mayor with the consent of the council shall, in his/her appointments, designate one officer to be chief of police and the other officers for special duties as he/she may deem necessary, and may designate the rank of such officers by the proper titles that he/she may select consistent with the police civil service rules and regulations.

It shall be the duty of the chief of police to enforce all laws of the state and ordinances of the city. The chief shall have control and supervision of the other police officers and shall be responsible for the faithful performance of their duties as well as his/her own. Subject to limitations imposed by the laws of the state and the police civil service rules and regulations, the mayor shall have supervision over the chief of police.

Section 8.03 POWERS OF POLICE OFFICERS

All police officers of the city shall be sworn officers, having the power of arrest according to state statutes and with the responsibilities for the protection of life and property, the preservation of the public peace and order, the prevention and detection of crime, the apprehension of offenders, the regulation and control of traffic, and the enforcement of the laws of the state and the ordinances of the city.

Amendment No. 9:

CHAPTER 9: FIRE DEPARTMENT

Section 9.01 ESTABLISHMENT AND MAINTENANCE OF FIRE DEPARTMENT

The city council shall have the power to create, keep and maintain a fire department; purchase or lease equipment; erect and maintain buildings and other structures; acquire land by purchase, lease, donation or condemnation for that purpose; adopt ordinances, resolutions and regulations for the prevention and control of fires and similar hazards; adopt by reference such regulations of any state agency, state or national code as may be deemed necessary; provide for the enforcement thereof; employ such personnel that may be needed and provide for the compensation and regulation of such personnel; contract to provide emergency fire fighting services to other municipalities, townships, or governmental subdivisions; and shall have the power to do any and all things necessary to operate a fire department within the City of Austin.

Amendment No. 10:

CHAPTER 10: AUSTIN UTILITIES BOARD

Section 10.01 AUSTIN UTILITIES BOARD OF COMMISSIONERS - ESTABLISHMENT; COMPOSITION; ELECTION AND TERM OF OFFICE, ETC

There is hereby created and established a board of water, electric, gas and power commissioners, which said board wherever referred to in this chapter, shall bear the legal name of Austin Utilities, which shall have the control and management of the water works system and the electric light plant of the City of Austin. Said board shall consist of five persons, none of whom shall be an employee of the Austin Utilities, each of whom shall be a citizen, qualified voter of the city, who shall be elected at large by the people, and who shall serve without compensation. The primary and general elections for the Austin Utilities Board members will be held at the same times and in the same manner as the primary and general election for other elected city officers as more specifically provided in Chapter 2 of the Austin City Charter and the general statutes of the state relating to municipal elections. The first election of an Austin Utilities board member after January 1, 1985 whose term begins May 1, 1985 shall be held on the second Tuesday after the second Monday in April, 1985, and such member's term will expire on January 1, 1989; and thereafter elections of Austin Utilities board members shall be held on the first Tuesday after the first Monday in November every even-numbered year; Austin Utilities board member's term that expires in May 1986 will be extended to the first business day in January 1987; Austin Utilities board member's term that expires in May 1987 will be shortened to this first business day in January 1987; Austin Utilities board member's term that expires in May 1988 will be extended to the first business day in January 1989; Austin Utilities board member's term that expires in May 1989 will be shortened to the first business day in January 1989; Utilities board members elected after January 1, 1985 shall be elected for a term of four years except as otherwise stated above and except those members elected to fill an unexpired term and shall take office on the first business day of January next succeeding their election.

All vacancies, by resignation or otherwise shall be filled by the mayor with consent of the city council, which person so appointed shall hold office until the next succeeding election and until his or her successor is elected and qualified. An election shall then be held for the unexpired portion of the vacated member's term.

The said board of Austin Utilities shall elect annually from among their own number a president and shall elect or appoint a secretary who shall not be a member of the board, and they may make bylaws and regulations for their government not inconsistent with the provisions of this chapter.

A majority of said board shall constitute a quorum; and all contracts, engagements, acts and doings of the said board within the scope of their duty and authority shall be obligatory upon and in law binding as if done by the city council of said city. Each member of said board shall, before entering upon the discharge of his or her official duties take and subscribe an oath of office and give a bond in the sum of one thousand dollars (\$1,000.00) to the City of Austin, to be approved by the city council, conditioned that he or she will faithfully and honestly discharge the duties of his or her office or appointment; and the said board may require from the persons employed by them, official bonds for the faithful discharge of their duties, which bonds shall be subject to the approval of the board; provided, however, that the bond of the secretary of the board shall be in the sum of at least five thousand dollars (\$5,000.00).

The salary and compensation of the secretary and employees of said board shall be such

as may be set from time to time by said board.

All actions taken by the Austin Utilities board pursuant to this chapter shall be subject to Section 14.06 of the City Charter.

Section 10.02 AUSTIN UTILITIES BOARD – GENERAL POWERS

Said Austin Utilities board may sue and be sued, plead and be impleaded, answer and be answered unto, appear and prosecute unto final judgment in any court, or elsewhere, in the name of said Austin Utilities board, have a common seal and alter the same at pleasure. They may employ all proper engineers, surveyors, clerks, or other agents or assistants necessary or convenient for accomplishing the purposes contemplated by this chapter, and may enter upon any land or water for the purpose of making surveys for alterations or extensions for the same. They may prosecute any action in the name of said board, against any person or persons, for money due for the use of water, electricity, gas, heat, and power; for the breach of any contract, express or implied, touching the execution or management of the water works, electric and gas plant, or any other system of lighting, power or for heating, and the distribution of water, electricity or gas, or for any promise or contract made to or for them; and also for any injury, trespass or nuisance done, caused, or procured to be done or caused to the water courses, and pipes, public electric wires, lines, conduits and machinery and gas pipes and mains or any other apparatus belonging to or connected with any part of the water works and electric light and power plant, and gas plant or for any improper use or waste of water or gas. Said board may acquire land or any interest therein by purchase, condemnation, or otherwise in its own name for the purposes contemplated by this chapter and any other purposes herein to implement the powers set forth herein. In acquiring property by exercising the power of eminent domain, the board shall proceed according to Minnesota Statutes Chapter 117 or other applicable law.

Section 10.03 AUSTIN UTILITIES - ADDITIONAL POWERS

The Austin Utilities board may, from time to time, for the purpose of furnishing a full supply of water to the inhabitants of the City of Austin, extend said water works or make new lines of works, and as it shall from time to time extend its said works or make new lines of works, it may draw water from any lake, spring, or creek by means of pipes, drains, conduits, aqueducts, or other means of conducting water so as to connect such lakes, springs, or creeks with its water works, and may erect and construct dams, bulkheads, gates, and other needed structures and means for controlling of water and its protection. Said board shall have the power to purchase at public or private sale all land and water rights necessary to secure to said city a full supply of water, and to do all things necessary for securing such lands or water rights, and may also for the purpose of furnishing electricity for lighting the streets of the city and for commercial lighting and power, extend its electric lines, poles, and wires and erect such poles, lines, and wires, and purchase such new or additional machinery as it may deem necessary for the purpose of furnishing electricity for uses in said city, both for lighting and power purposes. Said board shall have the right to dispose of surplus electricity outside of the corporate limits of the City of Austin, and to that end may do all things necessary or convenient to enable it to dispose of said surplus; and may also, for the purpose of furnishing gas for lighting or heat for

the streets or commercial use, build and construct a gas plant, lay and extend pipes and mains for conducting gas, and purchase such machinery, pipes and other material as may be necessary for such construction, extension, and operation; and may also, for heating purposes, in connection with the water works and electric plant, construct pipe lines for conducting hot water or steam to the various parts of the city, and to that end purchase pipe, machinery and appliances necessary for such construction, extension, and operation, and in general do any other act necessary or convenient for accomplishing the purpose contemplated by this chapter.

Said Austin Utilities board shall have the power and authority to engage in the sale and distribution of natural gas to the inhabitants of said city. To that end said board shall have the power to enter into contracts for the purchase of natural gas (both for distribution and for use in its own power house) and to construct and maintain a distribution system for distributing said gas to the inhabitants of said city, consisting among other things storage facilities, pipes, mains, service pipes, reducing valves, meters and other accessories; provided that notwithstanding anything to the contrary contained herein, the board may extend the gas distribution system outside the corporate limits of Austin and sell and distribute gas to consumers in such area including the right to sell and distribute gas to other municipal corporations as well as to their residents; all gas distributed and sold outside the corporate limits shall be sold at such rates and upon such terms and conditions as the board shall determine.

Said Austin Utilities board shall have the power and authority to purchase a distribution system from any person or corporation to whom the city council may grant a franchise, upon such terms as said board may deem advisable, and the city council permit or prescribe in the franchise granted, notwithstanding any provision to the contrary in the Charter or any applicable statutes contained.

Section 10.04 RIGHT TO USE OF STREETS, ETC

The said Austin Utilities board, in behalf of the City of Austin and all persons acting under their authority, shall have the right to use the ground or soil under any road, railroad, highway, street, lane, alley, court or public park for the purpose of constructing, enlarging, improving or repairing the works contemplated by this chapter, on condition that they shall cause the surface of such road, railroad, highway, street, lane, alley, court or public park to be restored to its original state, and all damages done thereto to be repaired.

Section 10.05 RATIFICATION OF EXISTING BONDS, ETC

The bonds and certificates of indebtedness heretofore issued by the said City of Austin for the purchase and improvement of the water works and electric plant of the City of Austin, or in refundment thereof, are hereby declared to be legal and valid bonds and obligations of said City.

Section 10.06 POWER TO REGULATE DISTRIBUTION, DISCONNECT SERVICE, ETC

The said board shall regulate the distribution and use of the water, electricity, gas, and heat in all places and for all purposes where the same shall be required for either public or private use, and fix the price and rates therefore; provided, however, that in the case of fire hydrants for the extinguishment of fires and the public fountains and watering places, the board shall fix and locate the same as the city council of said city may direct. And said board is hereby authorized and required to restrain and prevent any and all wastage of water, and to that end may, when in its judgment necessary, turn off the water, or take such other action as in its judgment may be proper.

Section 10.07 COLLECTION OF CHARGES IN ADVANCE

Said board shall have full power and authority to require payment in advance for the use of water, electricity and gas furnished by them in or upon any building, place or premises, and require meters to be used for measuring all water and electricity, and in case prompt payment for the same shall not be made, they may shut off the water, electricity or gas from such building, place or premises without regard to the purpose for which it is used and shall not be compelled to supply said building, place or premises with water, electricity or gas until such arrears, with interest thereon, together with such penalties, costs, and expenses of turning the water, electricity or gas off and on as may be fixed by the board, shall be fully paid.

Section 10.08 ANNUAL REPORTS AND ESTIMATES OF UTILITIES BOARD

Said board shall make and file with the city council of said city at least annually a detailed statement, duly certified by the president and secretary of said board under its seal, of the taxes received and placed to its credit during the preceding year, of all revenues received, and likewise of all disbursements made by said board in the operation and management of its facilities. The board shall also, at least annually, make a report to the council of the condition of the works under their charge, with a general summary of receipts and disbursements.

Section 10.09 POWER TO MAKE AND ENFORCE REGULATIONS, BYLAWS, ETC

Said board is hereby invested with full power to make and enforce such bylaws, regulations, and ordinances as may be necessary to carry into effect the object and intent of this act, and to enforce any and all resolutions, regulations, and ordinances which are now in force relating to the water works and electric plants, all of which resolutions and ordinances shall be deemed and considered as adopted by the board, and to be of full force and effect until they shall have been repealed, altered or amended by the board; and the board may supply any power or mode not already specified herein, and shall cause all bylaws, regulations, and ordinances to be entered and recorded in a book to be kept for that purpose, and signed by the president and secretary, which, when so entered, recorded, and signed shall be evidence in any court of justice; provided, that all resolutions, regulations, and ordinances heretofore passed by the city council of said city relating to the water works and electric plant shall be sufficiently recorded in said records by referring to the number and date of passage and approval of such regulations, resolutions, and ordinances.

Section 10.10 DUTIES OF TREASURER AND SECRETARY OF UTILITIES BOARD; EXAMINATION OF BOOKS

The finance director of the City of Austin is hereby declared to be the ex-officio treasurer of said board. It is made the duty of the secretary, under the direction of said board, to collect, receive and pay into the city treasury, all moneys due on account of the operation of the utilities' facilities and proceeds from the sale of bonds, and to keep a set of books which shall contain a full and complete statement of the condition and operation of said works and plant of all moneys received and paid out by order of said board, and all debts due and owing said board for any cause whatever, together with an accurate account of all the expenses of said board; and the said secretary may appoint an assistant for whose acts he/she shall be responsible, who shall only be authorized to act in the absence or disability of said secretary; and in the case of the disability from absence or other cause of said secretary, the board may appoint a secretary pro-tem to perform the duties of such secretary. It is made the duty of the treasurer of said board to receive all moneys which may be paid into the treasury on account of said board from any source whatever, and all moneys so received shall be retained by said treasurer and credited to the account of the board, and paid out only upon the orders of said board signed by its president and secretary, except such money as may be received from the sale of bonds and frontage tax, which shall be credited to the general account of the city and paid out upon the order of the mayor and city treasurer, and shall keep a detailed and exact account thereof in such manner as to show at all times the exact financial condition of said board. The books of said board shall be open to the examination of any person or persons appointed for that purpose, or to any member or committee of the city council or other person interested in the affairs of said city.

Section 10.11 RATES FOR SERVICE

The said board shall establish such water, electric, and gas rates as will at all times ensure to the city a proper income, sufficient if possible, to pay the interest and to provide a fund to pay the principal of all bonds to be issued, or heretofore issued, in connection therewith as well as to pay all the expenses and costs of maintaining and keeping in repair said works; provided, however, that such rates shall not be exorbitant or unreasonable, or so as to prevent the proper and extended use thereof; provided, also, that the present established rates shall continue until modified, changed or discontinued by act of the board.

Section 10.12 EXCLUSIVE USE OF RIGHTS-OF-WAY AND EASEMENTS

In all cases where rights-of-way and easements have been or may be hereinafter acquired, either by purchase or condemnation, for the laying of any conduit, supply pipes, electric poles, wires or mains, or gas mains or other appliances or works for supplying water, electricity, and gas as contemplated in this chapter, such rights of way and easements shall be paramount, and neither the said City of Austin, the County of Mower, or other county or municipal body or corporation, nor other corporation or person, shall enter thereon, use and occupy the same for any purpose other than said purpose for which said right-of-way or easement was or may be acquired as aforesaid, except with the consent in writing of said board, and upon such terms and

in such manner as may be agreed upon. The board is hereby authorized to make and enter into any agreement in that behalf which it may deem necessary and expedient.

Section 10.13 ACTIONS AGAINST AUSTIN UTILITIES BOARD AUTHORIZED; PAYMENT OF CLAIMS

Any and all causes of action, either at law or in equity, which may now exist, or which may hereafter arise by reason of any act or omission by or on the part of said board or any of its servants, agents or employees, shall be brought and maintained by such claimant or claimants against said board, anything in the statutes of the State of Minnesota to the contrary notwithstanding. And any and all judgments recovered against said board shall be paid out of any moneys in the hands of the city treasurer belonging to the credit of said board the same as other indebtedness is paid.

Section 10.14 “REAL ESTATE” DEFINED

The term “real estate” as used in this chapter shall be construed to signify and embrace all uplands, lands under water, the water of any lake, pond or stream, all and every estate, interest and right legal and equitable, in lands or water, including leases for a term of years and liens thereon by way of judgment, mortgage or otherwise, and also all claims for damage to such real estate.

Section 10.15 WATER MAINS; CONNECTION CHARGES

A. Water mains and water lines may be constructed and extended as and when determined by the board to be feasible and necessary in order to supply water to the inhabitants of the City of Austin.

B. As a condition to connecting or tapping into a water main or water line, the board may impose and collect a connection charge. In order that said connection charges be fairly and uniformly imposed, the board shall establish a schedule of connection charges which schedule shall be filed with the secretary of the board and which may be amended from time to time by the board in order to reflect changes in costs. Where a new water line is constructed or extended, the board may establish a connection charge for connection to that particular line based on the cost of the construction or extension and said connection charge need not be the same as the charge to connect to already existing water lines.

C. This section shall not be construed as limiting that authority to make water main or water line improvements under the Minnesota Local Improvement Code, Minnesota Statutes Annotated, Chapter 429 as amended, but shall be construed as powers granted in addition to and supplementary to the powers set forth therein.

Section 10.16 “WATER, ELECTRIC, GAS AND POWER” DEFINED

Where used in this Charter, the term “water, electric, gas and power” shall have the same

meaning as the term “municipal utility,” which means any publicly-owned utility system, including, but not by way of limitation, water, electric, gas power, steam heat, telephone, cable television and data transmission.

Amendment No. 11:

CHAPTER 11: PARKS AND PARKWAYS

Section 11.01 PARK AND RECREATION BOARD – ESTABLISHMENT; COMPOSITION; APPOINTMENT AND TERMS OF OFFICE; COMPENSATION, ETC

There is hereby created and established a park and recreation board which shall have control and management of public parks and recreation activities of the City of Austin. Said board shall consist of seven persons, each of whom shall be a citizen, qualified voter of said city and be appointed by the mayor by and with the consent of the city council. All members shall serve without compensation. Five of the members constituting said board shall be from among the qualified citizens of Austin. On May 1, 1949, one of said five members shall be appointed for one year, one for two years, one for three years, two for four years, and annually thereafter, the mayor shall appoint one member qualified as above for the term of four years to fill the place of the one whose term expires. In addition thereto, on May 1, 1949, and annually thereafter, the mayor by and with the consent of the city council shall appoint for the term of one year only, one member of the city council. The mayor shall also in addition thereto by and with the consent of the city council immediately appoint to said board for the term of one year only one member qualified as above from the board of education of Independent School District 492. A vacancy by resignation or otherwise of a board member from his or her office on the board of education or city council shall at once terminate that member’s appointment on the park and recreation board.

A majority of said board shall constitute a quorum. They shall hold monthly meetings and annually elect a president and secretary from among their number and may make bylaws and regulations for their government not inconsistent with the provisions of this chapter.

All vacancies by resignation or otherwise shall be filled by the mayor by and with the consent of the city council for the remainder of the unexpired term.

All contracts, engagements, acts and doings of said board within the scope of their duty and authority shall be obligatory upon and in law binding as if done by the city council of said city. Each member of said board shall before entering upon the discharge of his or her duties file an oath of office with the city recorder of the City of Austin; the secretary shall be the custodian of, and shall collect and receive all moneys and funds belonging to said board from whatever source received and shall be responsible for the safekeeping and disbursement thereof.

The compensation of all employees of said park and recreation board who may be entitled to compensation shall be such as may be fixed from time to time by the city council of the City of Austin.

All actions taken by the park and recreation board pursuant to this chapter shall be subject to Section 14.06 of the City Charter.

Section 11.02 DUTIES OF PARK AND RECREATION BOARD

The park and recreation board herein appointed, and their successors, shall have the power, and it shall be their duty, to devise and adopt a system of public parks and parkways and recreational facilities for the use of the citizens of the City of Austin, taking under their control all public parks and recreational facilities which now exist, and designating such other lands and grounds and facilities used and appropriated for such purposes.

It shall be the duty of the park and recreation board on or before the 1st day of August of each year to prepare and furnish to the city council an estimated budget in writing of the amount necessary to be expended during the ensuing calendar year for the operation, maintenance and extension of the park system and the recreational facilities of the City of Austin. Such budget shall itemize operation and maintenance costs and estimated needed capital expenditures as are required by the city council to finalize and adopt a budget for the Park and Recreation Board for the ensuing year. The city council shall have the authority to add or subtract items from the recommended budget during its budgeting process and when finalized, shall be adopted by resolution of the council. The amount determined to be needed for the operation, maintenance, extension and improvement of the park system and recreation facilities shall be set aside to be appropriated to the park and recreation fund; and the city finance director shall keep a separate account therefore, and it shall be paid out of the treasury only upon the orders of the park and recreation board, signed by the president and secretary. The city council may appropriate to the park and recreation fund such further sum or sums during each year as may be considered necessary and proper, and when so appropriated, shall be credited to said fund to be drawn out only in the same manner.

The board is authorized to receive and expend any donations for park purposes.

In order to facilitate future planning and budgeting, the park and recreation board shall report at least annually to the city council recommended land acquisitions, facility improvements and capital expenditures needed to fulfill the goals of the park and recreation board and the city council. It shall also report the status of its accomplishments in attaining the goals of the previous year's budget.

Section 11.03 CONTROL AND MANAGEMENT OF PARKS

The board shall have the exclusive control and management of all lands or real property and improvements thereon which now are or may hereafter be acquired, set apart or dedicated to the use of the people of the city as public parks or pleasure grounds.

The board shall have authority to purchase all articles and materials for, and have all work and labor performed upon, said parks and pleasure grounds.

The board shall have authority to direct and regulate the planting, trimming, pruning and care of shade or ornamental trees, shrubbery and grass plots in any and all of the public parks

and street right-of-ways of said city, and to cause the removal of unnecessary or objectionable trees and shrubbery from such parks and street right-of-ways, and to see that the weeds upon street right-of-ways and such plots are kept out, and that said grass plots are otherwise cared for and beautified.

The park board shall have authority to prune trees and cut any and all shade trees now growing, or which may be hereafter planted and growing, along and in front of any public or private property outside the sidewalk line within said city. No trees shall be trimmed within said city by any other person than the owner of the property on which they front, except by the authority and under the direction of said board; and said board shall have exclusive authority to determine as to the necessity of trimming or removing any trees.

Section 11.04 LIMITATION ON EXPENDITURES

Said board shall not expend or incur indebtedness in any one year chargeable to its fund in excess of the aggregate sum appropriated and set apart to the park fund for that year under the provisions of this chapter.

Section 11.05 REMOVAL OF COMMISSIONERS

Any commissioner may be removed from office by the city council of said city if it shall appear upon a hearing (notice having first been given to such commissioner or commissioners of such meeting at least 10 days prior thereto), and upon a petition of 10 or more residents of said city presenting sworn charges that said commissioner or commissioners have been guilty of a misdemeanor or malfeasance in office.

Section 11.06 ATTENDANCE AT MEETINGS

The office of any commissioner under this act who shall not attend the meetings of the board for three successive months, after having been duly notified of said meetings, without reasons satisfactory to the board or without leave of absence obtained from the board, may be, by said board, declared, and thereupon shall become, vacant.

Section 11.07 POLICE CONTROL OF PARKS, ETC.; ADOPTION OF RULES

The power and jurisdiction of the park board shall not extend to the police control within the parks or parkways, except that the said board shall have authority to adopt any rules affecting the quiet, ordinary and suitable use and enjoyment of said grounds by the people of the City of Austin, and the police control over said grounds shall be and remain where it is, or where it may be vested by the Charter of said city.

Amendment No. 12:

CHAPTER 12: PUBLIC LIBRARY

Section 12.01 LIBRARY BOARD - ESTABLISHMENT; COMPOSITION; APPOINTMENT AND TERMS OF OFFICE; COMPENSATION, ETC

There is hereby created and established a library board which shall have the control and management of the free public library of the City of Austin. Said board shall consist of nine persons, each of whom shall be a citizen and qualified voter of said city and who shall be appointed by the mayor of said city, by and with the consent of the city council as follows, and who shall serve without compensation. There shall be appointed three of said board annually for a term of three years each, and each member of said board shall continue to act until his or her successor is appointed and qualified.

All vacancies by resignation or otherwise shall be filled by the mayor, by and with the consent of the city council, for the unexpired time of the member of said board whose office becomes vacant.

Said library board shall annually elect a president and secretary from among their number and may make such bylaws as they may deem expedient for their government not inconsistent with the provisions of this chapter.

A majority of said board shall constitute a quorum, and all contracts, engagements, acts, and doings of said board within the scope of their duty and authority, shall be obligatory upon and in law binding as if done by the city council of said city. Each member of the board shall, before entering upon the discharge of his or her duties, file an oath of office with the city recorder of said city.

The compensation of all employees of said library board who may be entitled to compensation shall be such as may be fixed from time to time by the city council of the City of Austin.

All actions taken by the Library Board pursuant to this Chapter 12 shall be subject to Section 14.06 of the City Charter.

Section 12.02 POWERS OF LIBRARY BOARD

They shall have such powers as are granted to library boards by the general laws of this state, including the power to receive donations for library purposes, and to make requisite contracts or agreements in connection with such donations. They may prosecute any action in the name of said board for the breach of any contract, express or implied, touching the management of the library, and also for any injury, trespass, damage or nuisance done, caused, or procured to be done, and also for the enforcement of any fines or penalties imposed, but no member of said board shall be interested in any contract made by the board.

Section 12.03 DUTIES OF LIBRARY BOARD

The library board, herein provided to be appointed and their successors in office shall

have power, and it shall be their duty to manage, supervise and control the free public library of the City of Austin, taking under their control all property which has now been set apart to the existing library board, and all improvements thereon, and all books, periodicals, manuscripts and other articles of whatsoever character belonging to and forming a part of such library, and all books, papers or portions of libraries which may be hereinafter acquired, either by purchase or donation; and to provide for the proper, convenient and suitable use of such books, manuscripts and periodicals as the library may contain from time to time, under such rules and regulations and subject to such conditions as the board may impose, and in all things, control and maintain said library. And it shall be the duty of said board through its proper offices to make an annual report to the city council of the City of Austin, reciting the number, and in general, the character of the books, manuscripts, periodicals, materials and resources in the library, also the amount of money expended during the then preceding year and the amount which will be required, in order to maintain said library and keep the building open for public use, which amount however, shall not exceed in any one year the limitations set forth by state law. Upon receipt of such report from the library board, and on or before the time provided for the making of the budget and tax levy under this Charter, the city council shall levy a tax upon the taxable property of the City of Austin; such sum that the city council shall determine to be levied, not to exceed in any one year the limitations set forth by state law; and such proposed tax shall be subject to the approval of the mayor in the same manner as in this Charter provides for the levying of other taxes. Such tax when so levied shall be certified by the finance director to the county auditor to be extended as a part of the general tax levy for said city, and when the amount has been collected, it shall be set apart and appropriated to the library fund, and the finance director shall keep a separate account thereof, and it shall be paid out of the treasury only upon the order of the library board signed by its president and secretary. The city council may appropriate to the library fund from the general fund such further sum or sums during any year as may be determined by the council, and when so appropriated such sum shall be credited to said fund to be drawn out only in the manner herein provided.

Section 12.04 CONTROL AND MANAGEMENT OF LIBRARY

The library board shall have the exclusive control and management of all real estate and improvements which now are or may hereafter be acquired, set apart or dedicated to the use of the City of Austin for library purposes.

The board shall have authority to purchase or acquire by donation or otherwise, all such books, periodicals, manuscripts, and supplies for library purposes and in connection with the library as they may deem proper, and may appoint, remove, discharge or suspend the librarian, janitor and other employees or laborers necessary, determine the character of the books, manuscripts and periodicals in the library, also the amount of money expended during the then preceding year and the amount which will be required, in addition to the proper management of the library, and make such rules and regulations regarding the use of the library building or any part thereof, affixing penalties for the violation of any such regulations as they may deem proper.

It shall be the duty of the library board at all times to keep an accurate account of the cost of all buildings and improvements made upon the library property, and of all books, periodicals, manuscripts and supplies purchased in connection therewith, which accounts shall

be open for the examination of the council or any member of said board, or to any citizen and taxpayer of the City of Austin at all times.

Section 12.05 LIMITATION OF EXPENDITURES

Said board shall not expend or incur indebtedness in any one year, chargeable to its fund, in excess of the aggregate sum appropriated and set apart to the library fund for that year under the provisions of this chapter.

Section 12.06 REMOVAL OF MEMBERS OF LIBRARY BOARD

Any member of said board may be removed from office by the city council of said city if it shall appear upon a hearing or upon a petition of 10 or more residents of said city presenting sworn charges that any such member of the board has been guilty of a misdemeanor or of malfeasance in office; provided, however, that notice shall first be given to such member of the board at least 10 days before the time of the meeting at which such charges will be heard and considered, and such notice shall be accompanied with a copy of such charges, and such member shall have the right to appear and be heard in person, or by counsel, before the city council in relation thereto.

Section 12.07 ATTENDANCE OF LIBRARY BOARD MEETINGS

The office of any member of the board under this act who shall not attend the meetings of the board for three successive months after having been duly notified of said meetings without giving satisfactory reasons to the board or without leave of absence obtained from the board may be, by said board, declared, and thereupon shall become, vacant.

Amendment No. 13:

CHAPTER 13: FRANCHISES

Section 13.01 FRANCHISE REQUIRED

No person shall operate a public utility in the city without a franchise. The City shall grant a franchise only by ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise.

Section 13.02 TERM

No exclusive or perpetual franchise shall ever be granted. No franchise for a term exceeding 20 years shall be effective until approval by a majority of the electors voting thereon.

Section 13.03 PUBLIC HEARING

Before any franchise ordinance is adopted or any rates, fares, or prices to be charged by a public utility are fixed by the council, the council shall hold a public hearing on the matter. Notice of such hearing shall be published at least once in the official newspaper not less than ten days prior to the date of the hearing.

Section 13.04 POWER OF REGULATION RESERVED

Subject to any applicable law, the council may by ordinance reasonably regulate and control the exercise of any franchise, including the maximum rates, fares, or prices to be charged by the grantee. No franchise value shall be included in the valuation of the grantee’s property in regulating utility rates, fares, or prices under any applicable law, ordinance, or regulation or in proceedings for municipal acquisition of the grantee’s property by purchase or eminent domain.

Section 13.05 RENEWALS OR EXTENSIONS

Every extension, renewal or modification of any existing franchise or of any franchise granted hereafter shall be subject to the same limitations and shall be granted in the same manner as a new franchise.

Section 13.06 “FRANCHISE” OR “PRIVILEGE” DEFINED

The term “franchise” or “privilege” whenever the same is used or employed in this Charter shall mean special privileges conferred by the city upon any individual, company or corporation which do not belong to citizens of the country of common right.

Amendment No. 14:

CHAPTER 14: MISCELLANEOUS PROVISIONS

Section 14.01 VALIDITY OF EXISTING ORDINANCES

All ordinances and resolutions heretofore made and published by the city council of the City of Austin and not inconsistent with the 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 city 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 city council and purporting to contain the ordinances of said city, standing rules of said city council, or either, are hereby declared to be competent prima facie evidence of the contents of such ordinances, standing rules and orders, or of any resolution or other matters purporting to be the act of said city council

which may be found printed thereon, and of due adoption, approval and publication thereof, notwithstanding the supersedure of 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 hereby; but in all cases affecting past taxes not yet collected, liens for the same, rules of evidence and rights of every kind inchoate or perfected, the provisions of such acts as are hereby suspended or repealed, and of all ordinances passed by the council of said city shall be deemed to continue in force.

Section 14.02 CONTINUATION OF EXISTING BONDS, ETC

All outstanding indebtedness against the City of Austin, either in the form of bonds, refunded bonds, certificates of indebtedness, or orders issued by the city council of said city and which is now unpaid, no matter for what purpose the same was created and whether created under and by virtue of general or special laws, or by the city council in the due course of its business, and whether at the time the same was incurred it was legally incurred or not, is hereby declared to be a legal, valid and existing indebtedness against the City of Austin, and the faith and credit of said city is hereby irrevocably pledged to the payment thereof.

Section 14.03 REMITTING OF PENALTIES AND JUDGMENTS

No penalty or judgment in favor of the City of Austin shall be remitted or discharged except by a vote of two-thirds of all of the council members elect, but nothing contained in this section shall be construed to prohibit any court from remitting or reducing any penalty or judgment rendered by him or her, nor to prohibit said court from suspending execution of sentence in its discretion.

All acts and parts of acts inconsistent herewith shall, upon the passage of this Charter, be deemed to be repealed.

Section 14.04 CHARTER TO BE PUBLIC LAW

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

Section 14.05 BONDS AND UNDERTAKINGS

Whenever a bond is required to be given under the terms of this Charter or any resolution, ordinance, rule or regulation of the city council or any board, such bond may be either a bond signed by the principal and the surety or sureties or an undertaking signed by the surety or sureties, and the security on such bond or undertaking shall be executed by two or more persons who are residents of the State of Minnesota, and who shall truly justify in an amount equal to twice the amount of the bond, or it shall be executed by a corporate surety company authorized to do business in the State of Minnesota.

Section 14.06 CERTAIN BOARD ACTION CONFIRMED BY ORDINANCE

The following actions of the Austin Utilities Board, Park and Recreation Board, and Library Board shall be effective only if confirmed by the enactment of an ordinance of the city council:

(a) any action which reasonably can be expected to require the direct or indirect expenditure of moneys in the city treasury or any separate fund maintained by any such board during any one year period in an amount greater than 20 percent of the annual city budget for the fiscal year in which such action is taken.

(b) any action which legally obligates the City of Austin, under contract or otherwise, for a period greater than five years.

Any ordinance enacted by the council confirming action of the type set forth in this section shall be subject to the referendum process provided for in Section 2.07 of the City Charter.

Section 2. Said Ordinance shall become an effective amendment to the City Charter ninety days after publication unless a petition requesting a referendum on said ordinance is filed in accordance with the provisions of M.S.A. 410.12, Subd. 7, within sixty days of the publication of said ordinance as required in said statute.

Passed by a vote of yeas or nays this 7th day of June, 2010.

Yeas 7

Nays 0

APPROVED:

Mayor

ATTEST:

City Recorder

The foregoing ordinance was presented to the Austin City Council June 7, 2010; approved June 7, 2010; published in the Austin Daily Herald June 24, 2010; and becomes effective September 22, 2010.