

LAWS

PASSED AT THE

FIRST SESSION

OF THE

Legislature

OF THE

STATE OF SOUTH DAKOTA,

BEGUN AND HELD AT PIERRE, THE TEMPORARY CAPITAL OF SAID STATE, ON
TUESDAY, THE SEVENTH DAY OF JANUARY, A. D. 1890, AND
CONCLUDED MARCH 7TH, A. D. 1890.

PIERRE, S. D.
STATE BINDERY CO., PRINTERS.
1890.

§ 14. ACTION UPON REPORT OF COMMITTEE.] Any report of a committee of the council shall be deferred for final action thereon to the next regular meeting of the council after the report is made upon the request of any two aldermen present.

§ 15. JURISDICTION.] The city council shall also have jurisdiction in and over all places within one-half-mile of the city limits, for the purpose of enforcing health and quarantine ordinances and regulations thereof.

§ 16. PASSAGE OF ORDINANCES—VETO.] All ordinances shall be read twice, and there shall be at least one week intervene between the first and second reading, and, after thus being passed by the city council, shall before they take effect, be deposited in the office of the city auditor for the approval of the mayor; and if the mayor approves thereof, he shall sign the same, and such as he shall not approve he shall file with the auditor within ten days with his objections thereto, in writing, and his objections shall be considered at the next meeting of the city council. Such veto may extend to any one or more items or appropriations contained in any ordinance making an appropriation, or to the entire ordinance, and in case the veto only extends to a part of such ordinance, the residue thereof shall take effect and be in force. But in case the mayor shall fail to return any ordinance with his objections thereto, by the time aforesaid, he shall be deemed to have approved such ordinance and the same shall take effect accordingly:

Provided, That upon the return of any ordinance by the mayor, the vote by which the same was passed may be reconsidered by the council; and if, after such reconsideration, two-thirds of all the members elected to the city council shall agree by yeas and nays to pass the same, it shall go into effect, notwithstanding the mayor may refuse to approve thereof. The vote to pass the same over the mayor's veto, shall be taken by yeas and nays and entered on the journal;

Provided, further, That all ordinances so passed by the council and signed by the mayor, or passed over the mayor's veto, shall be published at least once in the official newspaper of the city, and shall become operative immediately upon such publication. The city auditor shall record in a book kept for that purpose, together with the affidavit of the publisher, all such ordinances so passed and published; and said book, or certified copy of the ordinances as so recorded, shall be received as evidence in all courts and places without further proof, or if printed in book or pamphlet form by the authority of the city council, they shall be so received and styled: "Be it ordained by the city council."

ARTICLE V.

§ 1. GENERAL POWERS OF CITY COUNCIL.] The city council shall have the following powers:

1. To control the finances and property of the corporation.
2. To appropriate money for corporate purposes only and provide for the payment of debts and expenses of the corporation.
3. To levy and collect taxes for general and special purposes on real and personal property.
4. To fix the amount, terms and manner of issuing and revoking licenses.
5. To borrow money on the credit of the corporation for corporate purposes, and issue bonds therefor, in such amounts and forms, and on such conditions as it shall prescribe, but shall not become indebted in any manner or for any purpose to any amount including existing indebtedness, in the aggregate to exceed five (5) per centum on the value of the taxable property therein, to be ascertained by the last assessment for State and county taxes previous to the incurring of such indebtedness; and before or at the time of incurring any indebtedness, shall provide for the collection of a direct annual tax sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal thereof within twenty years after contracting the same;

Provided, No bonds shall be issued by the said city council under the provisions of this act either for general or special purposes unless at an election after twenty days' notice in a newspaper published in the city, stating the purpose for which said bonds are to be issued and the amount thereof, the legal voters of said city by a majority shall be determined in favor of issuing said bonds.

6. To issue bonds in place of, or to supply means to meet maturing bonds, or for the consolidation of funding the same.
7. To lay out, establish, open, alter, widen, extend, grade, pave, or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks and public grounds and vacate the same.
8. To plant trees on the same.
9. To regulate the use of the same.
10. To prevent and remove obstructions and encroachments upon the same.
11. To provide for the lighting of the same.
12. To provide for the cleansing of the same.
13. To regulate the openings therein for the laying of gas or water mains and pipes, and the building and repairing of sewers, tunnels and drains, and erecting gas or electric lights;

Provided, however, That any company heretofore organized under the general laws of this State, or any association of persons organized or which may be hereafter organized for the purpose of manufacturing illuminating gas or electricity to supply cities, or the inhabitants thereof, with the same, shall have the right by consent of the city council (subject to existing rights,) to erect gas or electric light works, and lay down pipes, or string wires on

poles, in the streets or alleys of any city in this State subject to such regulations as such city may by ordinance impose.

14. To regulate the use of sidewalks and all structures thereunder; and to require the owner or occupant of any premises to keep the sidewalks in front of, or along the same, free from snow and other obstruction.

15. To regulate and prevent the throwing or depositing of ashes, offal, dirt, garbage, or any offensive matter into any street, avenue, alley, public ground, or into any stream of water within the city limits or forming the boundary thereof, and to prevent injury to any street, avenue, alley or public ground.

16. To provide for and regulate crosswalks, curbs and gutters.

17. To regulate and prevent the use of streets, sidewalks, and public grounds for signs, sign posts, awnings, telegraph or telephone poles, horse troughs, racks, posting hand-bills and advertisements.

18. To regulate and prohibit the exhibition or carrying of banners, placards, advertisements or hand-bills in the streets or public grounds, or upon the sidewalks.

19. To regulate and prevent the flying of flags, banners or signs across the streets or from houses.

20. To regulate traffic and sales upon the streets, sidewalks and public places.

21. To regulate the speed of horses and other animals, vehicles, cars and locomotives within the limits of the corporation.

22. To regulate the numbering of houses and lots.

23. To name and change the name of any street, avenue, alley or other public place.

24. To permit, regulate or prohibit the locating, constructing or laying a track of any horse railroad in any street, alley, or public place; but such permission shall not be for a longer time than twenty years.

25. To provide for and change the location, grade and crossing of any railroad.

26. To require railroad companies to fence their respective railroads, or any portion of the same, and construct cattle guards, crossings of streets and public roads, and viaduct or overhead crossings, and keep the same in repair within the limits of the city.

27. To require railroad companies to keep flagmen at railroad crossings of streets, and to provide protection against injury to persons and property; to compel such railroad to raise or lower their railroad tracks, to conform to any grade which may, at any time be established by such city, and where such tracks run lengthwise of any such streets, alley, or highway, to keep their railroad tracks on a level with the street surface, and so that such tracks may be crossed at any place on such street, alley or highway; to compel and require railroad companies to make and keep open, and keep in repair, ditches, drains, sewers and culverts along and

under their railroad tracks, so that filthy or stagnant pools of water cannot stand on their grounds or right of way, and so that the natural or artificial drainage of adjacent property shall not be impeded.

28. To construct and keep in repair bridges, viaducts and tunnels, and to regulate the use thereof.

29. To construct and keep in repair culverts, drains sewers, catch-basins, man-holes and cess-pools, and to regulate the use thereof.

30. To license, tax, regulate, suppress, and prohibit hawkers, peddlers, pawnbrokers, keepers of ordinaries, theatricals and other exhibitions, shows and amusements, ticket scalpers, and employment agencies, and to regulate or license the manufacture and sale of cigars, tobacco, cigarettes, snuff, soda water, mineral water, and all light drinks of every kind, the manufacture and sale of which is not prohibited by the laws of the State.

31. To license, tax and regulate hackmen, draymen, omnibus drivers, carters, cabmen, porters, expressmen, watermen, and all others pursuing like occupations, and to prescribe their compensation.

32. To license, regulate, tax and restrain runners for stages, cars, public houses, or other things or persons.

33. To license, regulate, tax or prohibit and suppress billiards, bagatelle, pigeon hole or any other tables or implements kept or used for a similar purpose in any public resort, pin-alleys and ball-alleys.

34. To suppress bawdy or disorderly houses, houses of ill fame, or assignation within the limits of the city; and within one mile of the outer boundaries of the same, and also to suppress gaming and gambling houses, lotteries and all fraudulent devices and practices for the purpose of gambling or obtaining money, or property, and to prohibit the sale or exhibition of obscene or immoral publications, prints, pictures or illustrations.

35. To establish markets and market houses, and to provide for the regulation and use thereof.

36. To provide for place and manner of sale of meats, poultry, fish, butter, cheese, lard, vegetables, and all other provisions, and regulate the selling of the same.

37. To regulate the sale of bread in the city and prescribe the weight and quality of the bread in the loaf.

38. To provide for and regulate the inspection of meats, poultry, fish, butter, cheese, lard, vegetables, flour, meal and other provisions.

39. To regulate the inspection, weighing and measuring of lumber, firewood, coal, hay, and any article of merchandise.

40. To provide for the inspection and sealing of weights and measures.

41. To enforce the keeping of proper weights and measures by venders.

42. To regulate the construction, repairs and use of vaults, cisterns, areas, hydrants, pumps, sewers and gutters.

43. To construct and maintain water works and make all the needful rules and regulations concerning the distribution and use of water supplied by such water works.

44. To purchase, condemn, hold and improve public parks within or without the limits of the city, and provide for the protection, improvement and preservation of the same.

45. To appropriate damage, take and condemn any property of any corporation or person for the purpose of establishing, changing, opening, widening, extending or grading any public street or alley.

46. To regulate places of amusement.

47. To prevent intoxication, fighting, quarreling, dog fights, cock fights, and all disorderly conduct.

48. To regulate partition fences and party walls.

49. To prescribe the thickness, strength and manner of constructing stone, brick and other buildings, and construction of fire escapes therein.

50. To prescribe the limits within which wooden buildings shall not be erected or placed or repaired without permission, and to direct that all and any buildings within said limits (which shall be known as the fire limits), when the same shall have been damaged by fire, decay, or otherwise, to the extent of fifty per cent of the value, shall be torn down or removed, and to prescribe the manner of ascertaining such damage.

51. To prevent dangerous construction and condition of chimneys, fire places, hearths, stoves, stove pipes, ovens, boilers, and apparatus used in and about any building and manufactory, and to cause the same to be removed or placed in a safe condition where considered dangerous; to regulate and prevent the carrying on of manufactories dangerous in causing and promoting fires; to prevent the deposit of ashes in unsafe places, and cause all such buildings and enclosures as may be in a dangerous state to be put in a safe condition.

52. To erect engine houses and provide fire engines, hose carts, hooks and ladders, and other implements for prevention and extinguishment of fires, and provide for the use and management of the same by voluntary or paid fire companies or otherwise.

53. To regulate and prevent the storage of gun powder, tar, pitch, resin, coal oil, benzine, turpentine, hemp, cotton, nitro-glycerine, petroleum, or any of the products thereof, and other combustible or explosive material, and the use of lights in stables, shops and other places, and the building of bon-fires; also to regulate and restrain the use of fire works, fire crackers, torpedoes, roman candles, sky rockets, and other pyrotechnic displays.

54. To provide for the inspection of steam boilers.
55. To establish and erect a city jail, house of correction, and work house for the confinement and reformation of disorderly persons, vagrants, tramps, and idle persons, and persons convicted of violating any city ordinance, and make rules and regulations for the government of the same, and appoint necessary jailors and keepers.
56. To use the county jail for the confinement or punishment of offenders, subject to such conditions as are imposed by law, and with the consent of the county board of commissioners, and to regulate the police of the city, and pass and enforce all necessary police ordinances.
57. To prevent and suppress riots, routs, affrays, noises, disturbances, and disorderly assemblies in any public or private place.
58. To prohibit and punish cruelty to animals.
59. To restrain and punish vagrants, mendicants and prostitutes.
60. To declare what shall be a nuisance, and to abate the same and impose fines upon parties who may create, continue, or suffer nuisances to exist.
61. To appoint a board of health and prescribe its powers and duties.
62. To erect and establish hospitals, and medical dispensaries, and to control and regulate the same.
63. To do all acts, make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease.
64. To establish and regulate cemeteries within or without the corporation, and acquire lands therefor by purchase or otherwise, and cause cemetery to be removed and prohibit their establishment within one mile of the corporation.
65. To regulate, restrain, and prohibit the running at large of horses, cattle, swine, sheep, goats, geese and dogs, and to impose a tax or license on dogs.
66. To direct the location and regulate the management and construction of packing houses, renderies, bone factories, slaughter houses, soap factories, foundaries, breweries, distilleries, livery stables, and blacksmith shops, within, or within one mile of the limits of the corporation.
67. To prohibit any offensive or unwholesome business, or establishment within, or within one mile of the limits of the corporation.
68. To compel the owner of any grocery, cellar, stable, pig sty, privy, sewer or other unwholesome or nauseous house or place, to cleanse, abate or remove the same, and to regulate the location thereof.
69. To provide for the taking of the city census; but no city census shall be taken oftener than once in three years.

70. To provide for the erection and care of all public buildings necessary for the use of the city.

71. The city council shall have power by condemnation or otherwise to extend any street, alley or highway over or across or to construct any sewer under or through any railroad track, right of way, or land of any railroad company (within the corporate limits), but where no compensation is made to such railroad company, the city shall restore such railroad track, right of way or land to its former state, or in a sufficient manner not to have impaired its usefulness.

72. The city council shall have no power to grant the use of, or right to lay down any railroad tracks in any street of the city, to any steam or horse railroad company except on a petition of the owners of the land representing more than one-half of the frontage of the street, or so much thereof as is sought to be used for railroad purposes.

73. To prevent and regulate the rolling of hoops, playing of ball, flying of kites, or any other amusement or practice having a tendency to annoy persons passing in the street or on the sidewalks, or to frighten teams and horses.

74. To regulate and prohibit the keeping of any lumber yard and the placing or piling or selling any lumber, timber, wood, or other combustible material within the fire limits of the city.

75. To provide by ordinance that all the paper, printing, stationery, blanks, fuel, and all the supplies needed for the use of the city shall be furnished by contract let to the lowest responsible bidder.

76. To tax, license and regulate second hand and junk stores, and to forbid the purchasing and receiving from minors without the written consent of their parents or guardians any article whatever, and to prescribe punishment for any violation hereof.

77. To purchase, erect, lease, rent, manage and maintain any system or part of system of water works, hydrants, and supply of water, telegraphing fire signal or fire apparatus that may be of use in the prevention or extinguishment of fires, and to pass all ordinances, penal or otherwise, that shall be necessary for the full protection, maintenance, management and control of the property so leased, purchased or erected.

78. To redistrict the city into wards, and describe the boundaries thereof whenever the population is large enough to require two aldermen or more than are in the council; *Provided*, That in redistricting the city into wards, it shall be done by ordinance and the wards made as nearly equal in population as possible; and *Provided, further*; that no change shall be made until after the next general election in said city after the passage of this act, and no such change shall take effect until the next general election thereafter, except and it is hereby expressly provided that the city council of any city may proceed to redistrict the city into

wards where an ordinance has been introduced for that purpose under the existing laws prior to the 26th day of February, 1890.

79. To pass all ordinances, rules, and make all regulations, proper or necessary to carry into effect the powers granted to the cities, with such fines or penalties as the city council shall deem proper; *Provided*, No fine or penalty shall exceed one hundred (100) dollars, and no imprisonment shall exceed three months for one offense.

§ 2. ACTIONS.] All actions brought to recover any fine or to enforce any penalty, under any ordinance of any city, shall be brought in the corporate name of the city as plaintiff; and no prosecution, recovery or acquittal, for the violation of any such ordinance, shall constitute a defense to any other prosecution of the same party for any other violation of any such ordinance, although the different causes of action existed at the same time, and if united would not have exceeded the jurisdiction of the court or justice of the peace.

§ 3. FINES.] All fines and forfeitures for the violation of ordinances, when collected, and all moneys collected for license or otherwise, shall be paid into the treasury of the corporation at such times and in such manner as may be prescribed by ordinance.

§ 4. SUMMONS.] In all actions for the violation of any ordinance, the first process shall be a summons; *Provided*, However, that a warrant for the arrest of the offender may issue in the first instance upon the affidavit of any person that any such ordinance has been violated; and that the person making the complaint has reasonable grounds to believe that the party charged is guilty thereof; and any person arrested upon any such warrant shall without any unnecessary delay be taken before the proper officer to be tried for the alleged offense. Any person upon whom any fine or penalty shall be imposed may upon order of the court before whom the conviction is had, be committed to the county jail, city prison, work house, house of correction or other place provided by the city for the incarceration of offenders until such fine, penalty and costs shall be fully paid; *Provided*, That no such imprisonment shall exceed three months for any one offense. The city council shall have power to provide by ordinance that every person so committed shall be required to work for the corporation at such labor as his or her strength will permit, not exceeding ten hours each working day; and for such work, the person so employed, to be allowed, exclusive of his or her board, \$1.25 for each day's work, on account of such fine and costs.

§ 5. POLICE JUSTICE.] The police justice shall have exclusive jurisdiction in all cases arising under the provisions of this act, or any ordinance passed in pursuance thereof.

§ 6. SERVICE OF PROCESS.] Any constable or sheriff in the county may serve any process, or make any arrests authorized to be made by any city officer.

ARTICLE VI.

§ 1. CITY OFFICERS.] There shall be elected in all cities organized under this act the following officers: A mayor, two aldermen from each ward, a city treasurer, a police justice, and a city justice of the peace.

§ 2. TERM OF OFFICE.] The elective officers of a city shall hold their respective offices for two years, and until their successors are elected and qualified: *Provided*, that at the election to be held on the third Tuesday of April next all cities now organized under the general laws of the State shall elect a mayor, two aldermen from each ward, a city treasurer, a police justice, and a city justice of the peace; and the term of office of all city officials holding office under and by virtue of the general laws of this State relating to the incorporation of cities, prior to the passage of this act, shall terminate on the first Monday of May, 1890.

§ 3. APPOINTIVE OFFICERS.] There shall be appointed by the mayor, with the approval of the city council, a city auditor, not to exceed three city assessors, a city attorney, and a city engineer, and such other officers as may by the city council be deemed necessary or expedient.

§ 4. TERMS OF OFFICE.] The appointive officers of a city shall hold their respective offices for one year and until their successors are appointed and qualified: *Provided*, that the term of office of all the appointive officers of any city organized under chapter 73 of the laws enacted by the Seventeenth Legislative Assembly of the Territory of Dakota, and the amendments thereto, shall terminate on the first Monday of May next.

§ 5. OATH OF OFFICE.] All officers of any city, whether elected or appointed, shall, before entering upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States and the constitution of the State of South Dakota, and that I will faithfully discharge the duties of the office of _____ according to the best of my ability." Which oath or affirmation so subscribed shall be filed in the office of the city auditor; and all such officers, except aldermen, shall, before entering upon the duties of their respective offices, execute a bond with security, to be approved by the city council, payable to the city, in such penal sum as may by resolution or ordinance be directed, conditioned for the faithful performance of the duties of the office and the payment of all money received by such officer, according to law and the ordinance of such city: *Provided*, however, that in no case shall the Mayor's bond be fixed for a less sum than three thousand (\$3,000) dollars; nor shall the treasurer's bond be fixed at a less sum than the amount of the estimated tax and special assessments for the current year, which bonds shall be filed with the city auditor (except