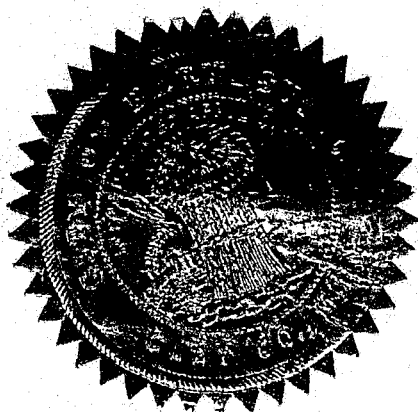


C E R T I F I C A T E .

I, THE UNDERSIGNED, as Mayor and Chief Magistrate, of the City of Barnesville, Clay County and State of Minnesota, do hereby certify, that the Charter of the City of Barnesville, Clay County and State of Minnesota which is hereto attached, was duly drafted by a Board of Fifteen (15) freeholders, duly appointed for that purpose by the Judges of the District Court of the Seventh Judicial District in and for the County of Clay and State of Minnesota pursuant to an act of the Legislature of the State of Minnesota, entitled, " An Act authorizing any city or village in this State to frame its own Charter for its government as a city consistent with and subject to the laws of this State", approved April 23rd. 1897.

AND I FURTHER CERTIFY that said Charter was duly submitted to the qualified voters of said City of Barnesville at a special city election called for that purpose on the 28th. day of June, 1898, and was duly ratified by more than four sevenths of the qualified voters of said City of Barnesville voting upon its adoption at said special election; That there were at said special election one hundred sixty nine (169) votes cast upon the question of the adoption of said Charter, and of this number one hundred fifty two (152) voted for its adoption and seventeen (17) voted against its adoption.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the seal of the City of Barnesville, Clay County, Minnesota, this 20th. day of July, A. D. 1898.



Peter Engels

Mayor of the City of Barnesville,
Clay County, Minnesota.

#2317



To the Mayor of the City of
Barnesville, Clay County, Minn.

The Board of Fifteen Freeholders of the City of Barnesville, Clay County, Minnesota, appointed on the 10th. day of September, 1897, by Hon. L. L. Baxter and Hon. D. B. Searle, the judges of the District Court for the Seventh Judicial District, wherein said city of Barnesville is situated under the provisions of Chapter 255: general laws of Minnesota of 1897, have, in accordance with the requirements of their said appointment, drafted a proposed Charter for the City of Barnesville, and return the same to you as required by said act.

Said proposed City Charter is as follows:

CHARTER OF THE CITY OF BARNESVILLE :

CHAPTER I.

CITY AND WARD BOUNDARIES:

Section 1. All the district of country in the County of Clay contained within the limits and boundaries hereinafter described, shall be a city of the name of "Barnesville", and the people now inhabiting, and those who shall hereafter inhabit the district of country hereinafter described, shall be a municipal corporation by the name of Barnesville, and by that name shall sue and be sued, complain and defend. in any court, make and use a common seal and alter it at pleasure, and take, hold, purchase, lease, and convey such real and personal and mixed estate as the purpose of this corporation may require within or without the limit aforesaid; shall be capable of contracting and being contracted with, and shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession.

Section 2. The district of country aforesaid constituting the city of Barnesville and the limit and boundaries thereof shall be as follows:

All of section thirty (30), and the north half ($n\frac{1}{2}$), of section thirty one (31), of township one hundred and thirty seven (137), north of range forty five (45), west of the fifth (5th.), principal meridian; also the east half ($e\frac{1}{2}$), of section twenty five (25), and the north east quarter ($n\ e\ \frac{1}{4}$), of section thirty six (36), in township one hundred and thirty seven (137), north of range forty six (46), west of the fifth (5th.), principal meridian.

Section 3. The said city shall be divided into three (3), wards, to be called the first (1st.), second (2d.), and third^(3d) wards, limited and bounded as follows:

The first ward shall consist of that portion of said city lying north of a straight line running east and west and intersecting the east and west boundaries of said city, and continuous with the middle line of First street hereinafter mentioned.

The second ward shall consist of that portion of said city lying between the first ward and a line running straight east and west intersecting the east and west boundaries of said city and continuous with the middle line of Fourth street hereinafter mentioned.

The third ward shall embrace all that portion of said city lying south of the second ward.

First and Fourth streets above mentioned being streets laid down upon a plat of a portion of the territory above described, entitled "Map of Barnesville", now of record in the office of the register of deeds for Clay County, Minnesota.

Section 4. That said city of Barnesville shall be and is hereby divided into three aldermanic districts, and each ward shall constitute an aldermanic district. Said aldermanic districts shall be numbered to correspond with the wards. That each of said aldermanic districts so as above described and constituted, shall form a separate election precinct of said city, for the holding of all the general elections, provided for

under the laws of this state, and for the election of all corporate officers to be elected as provided for in this act, and in any act which may be amendatory of this act.

PROVIDED, HOWEVER, That the common council of said city may by a vote of two thirds (2-3), of the members elect of said council divide such of said aldermanic districts as may contain over two hundred (200), resident electors, into two (2), or more election precincts of said district, and from time to time designate by resolution or ordinance such election districts as may be deemed necessary, as aforesaid, in order to provide for the convenience of electors and to prevent illegal voting. Such districts to be designated by numbers or otherwise as said common council may determine and

PROVIDED, FURTHER, that said common council may, by a two thirds vote of all the members elect of said council, change the boundaries of the aldermanic districts in this act defined; but such change shall not be made within forty (40), days next preceeding any general or special election.

CHAPTER II.

ELECTION, APPOINTMENT AND DUTIES OF OFFICERS.

Section 1. Time of election.- There shall be a biennial election by the qualified electors of said city for elective officers herein provided for held on the second Tuesday in March A.D. One thousand eight hundred ninety nine (1,899), and every odd numbered year thereafter in each aldermanic district in said city and in such election precincts in said districts, as may be established by resolution or ordinance of the city council, and at such place and places therein as the city council may by resolution or otherwise designate, and ten (10), days previous notice of such election shall be given by the city council of the time and place of holding such election and of the officers to be elected

Section 2. Elective officers.- That the elective officers of said city shall be a mayor, city treasurer, city clerk, assessor, two (2), city justices, two (2), constables and two (2), ward aldermen elected from each

Ward or aldermanic district. Each of said ward aldermen to be hereafter elected, shall be a qualified elector and actual resident of the ward and district ⁿfor which he may be elected and shall continue to reside in such district during such time he shall serve as such alderman. All of the other officers above specified shall be residents and qualified electors of said city. All other officers necessary for the proper management of the affairs of said city and not otherwise provided for in this Charter shall be appointed by the city council, and the terms of each officer elected by the people under this Charter shall be two (2), years.

Section 3. The commencement and end of term.- The ~~term~~ term of each elective officer shall commence on the first Monday in April next succeeding his election, and all officers elective and appointive shall serve to the expiration of their respective terms and until their successors are elected or appointed and have qualified, except when removed, as herein provided.

Section 4. Removal of officers.- Any person appointed to any officer under the provisions of this Charter may be removed from such office by a vote of two thirds of all the members of the city council, except as otherwise provided for in this Charter; but no such officer shall be removed by the city council except for cause, and unless he has first been furnished with a copy of the charges, nor until he shall have had reasonable opportunity to be heard in person or by counsel in his own defense. The city council shall have power to fix the time and place for the trial of such officer, of which he shall be given not less than ten (10), days notice, to compel the attendance of witnesses and the production of papers, and to hear and determine the case. If such officer shall neglect to answer to such charge, the same shall be cause for removal.

Section 5. Vacancy- How filled.- When a vacancy shall occur in the office of any officer elected by the people or appointed by the city council, such vacancy shall be filled by appointment by the city council for the unexpired term.

Section 6. What shall constitute an election.- A plurality of votes for elective officers shall constitute an election. When two or more persons shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the city council, at such place and in such manner as they may direct. Officers appointed by the city council shall receive a majority vote of all its members to constitute an appointment.

Section 7: All persons entitled to vote for state and county officers, and who shall have resided for thirty (30) days next preceding the election in the election district where they offer their votes shall be entitled to vote for any officer elected under this charter and to hold any office hereby created. Said election shall be held and conducted in the manner and under the same penalties as required by the laws of the state regarding elections; except that the returns for all city elections shall be made to the city clerk.

Section 8. Special elections for any purpose shall be held and conducted by the officers appointed in accordance with the preceding section, in the same manner, and the returns thereof shall be made in the same form and manner as general and biennial elections, and within such time as may be prescribed by resolution.

Section 9. Removal, refusal or failure to act.- Any officer removing from the city or ward for which he was elected or appointed, and any officer elected under the provisions of the charter who shall refuse, or without cause neglect to enter upon the discharge of the duties of his office for ten (10) days after the beginning of the term which he was elected to fill, he having at least ten (10) days prior thereto been notified by the city clerk of his election, or any officer appointed under the provisions of this charter who shall refuse or neglect to enter upon the discharge of the duties of his office for ten (10) days after receiving notice from the city clerk of his appointment, shall be deemed to have vacated or abandoned the same.

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Section 10. Resignation.- Any officer having entered on the duties of his office may resign the same by and with the consent of the city council.

Section 11. Oaths and bonds.- Every person elected or appointed to any office under this Charter shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same with the city clerk. The treasurer, clerk and such other officers as the city council shall require, shall severally, before they enter upon the duties of their office, execute to the city bonds in such amounts and upon such conditions as the city council may prescribe. Such bonds shall be approved by the city council, and it may from time to time require new or additional bonds, and it may remove from office any officer neglecting or refusing to give same.

Section 12. Interest in city contracts disqualifies for holding office.- No mayor, member of the city council, or other city officer, shall, while such mayor, member of the city council, or other city officer, vote for or make any contract in behalf of the city or any department of the city with himself or with any firm of which he is a member, or with any corporation or association of which he is an officer or director, nor shall he be in any manner, directly or indirectly interested in any contract with the city, and any contract in which said mayor, member of the city council, or other city officer, is or becomes directly or indirectly interested, shall be and become absolutely void, and any such officer by said act shall forfeit his said office.

Section 13. penalty for failure to observe duties imposed.- Any officer or employe of the city who shall offend against any of the provisions of this Charter or thing required to be done by him, or by wrongfully doing the same or who shall wilfully violate any of the provisions of this Charter or commit any fraud upon the city, or convert any of the public property to his own use, or knowingly permit any other person to so convert it or by gross and culpable neglect allow the same to be lost to the city,

shall be guilty of misdemeanor and shall be punished therefor as misdemeanors are punished by the criminal laws of the state, and shall, as a consequence thereof, forfeit his office and be forever disqualified from holding any office of trust or profit under the city government and shall be liable to the city for any amount lost or damage suffered by reason of such wrongful act or violation of law.

Section 14. The salaries of all officers and employees of the city shall be fixed by a resolution passed by a two thirds vote of all the members of the city council and the salaries of the officers and employees shall be paid monthly, and the salaries of the employees may be paid weekly unless otherwise provided by law, out of the treasury of the city, and the salaries of officers whose terms of office are fixed by this Charter shall not be increased or diminished during the term for which the officer shall have been chosen, nor during the time intervening between his election or appointment and the commencement of his said term.; and

PROVIDED, HOWEVER, that until the city council shall have so fixed the salaries as herein provided, no salary or compensation shall be allowed or paid to any of the following named officers or employees or any of them in excess of the following named sums, to-wit: The treasurer, one hundred fifty dollars (\$150), per annum; the city clerk, one hundred fifty dollars (\$150), per annum; the city attorney, one hundred dollars (\$100) per annum; the city assessor, one hundred dollars (\$100) per annum; the chief of police six hundred dollars (\$600) per annum.

PROVIDED, HOWEVER, that the mayor and the members of the city council shall serve without compensation.

PROVIDED, FURTHER, that when the duties performed by any of the officers aforesaid are, by the terms of this Charter imposed upon officers otherwise designated, the limitations herein contained shall be construed to apply to such newly designated officers, and in no event to perpetuate or authorize any office or position not recognized by this Charter.

Section 15. Reports of officers.- Every elective and appointive officer shall continue to reside in the ward or district for which elected

or appointed, and shall keep and attend his office at such time and place as may be prescribed by the city council, and except members of the city council, shall annually and in the years when the city election is to be held, not less than ten (10), nor more than thirty (30), days before such election

, make and transmit to the city council an accurate verified report of the business of his office for the preceeding year, together with a true, verified inventory of all moneys, property and other effects of the city in his possession or under his control; and at the time of making such report he shall likewise make and transmit to the city council and the city clerk an estimate of the cost and expense of the operation of his office for the ensuing fiscal year; and he shall likewise, whenever requested by the mayor or city council, make to them, or either of them a similiar report and shall exhibit to them, or either of them, all the books of account, papers and other records of property kept in and controlled by his office. At the expiration of his term or when removed from his office, he shall, on demand, turn over to the city or to his successor in office, all the books, papers, records, files, money and other property and things whatever pertaining to his office, or received by him, by virtue or reason of the exercise thereof.

Section 16. No gift or gratuity shall be accepted.- turning over fees- No officer shall directly or indirectly, in or about the performance of the duties of his office, receive any gift, commission, gratuity or reward or other valuable thing whatever; and every such officer and member shall account for and pay over to the city at the end of each month all fees collected by him during the preceeding month, by virtue or reason of his office except as may be herein otherwise provided. Any violation of the provisions of this section shall be deemed corrupt in office and punished as provided in this Charter.

Section 17. Exemption from jury service.- All officers and employees of the city while engaged in its service shall be exempt from serving as jurors in any court.

Section 18. Fiscal year.- The fiscal year of the city shall commence on the first day of April of each year.

CHAPTER III.

POWERS AND DUTIES OF THE MAYOR.

Section 1. The Chief executive.- The mayor shall be the chief executive officer of the city, and shall preside over the meetings of the city council but shall have no vote in their proceedings except in case of a tie vote when he shall have the power to cast the deciding vote. He shall take care that the laws of the state and the ordinances of the city are duly observed and enforced within the city. He shall see that all the other officers of the city discharge their respective duties. He shall from time to time give the city council such information and may recommend such measures as he shall deem advantageous to the city.

Section 2. Approval of ordinances and resolutions- veto power.- Every ordinance, order and resolution shall, before it takes effect be presented to the mayor for approval. If he approves he shall sign the same, but if he disapproves it he shall return it to the city council with his objections thereto, by depositing the same with the city clerk, to be presented to the city council at the next regular meeting thereafter.

Section 3. Reconsideration.- Upon the return of any ordinance, order or resolution by the mayor, the vote by which the same was passed shall be deemed to have been reconsidered, and the question shall be again put upon the passage of the same, notwithstanding the objections of the mayor; and if upon such vote, the city council shall pass the same by a vote of two thirds (2-3), of all its members, it 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 entered by the city clerk of record;

PROVIDED, HOWEVER, that in all cases where the original action of the council requires a two thirds (2-3), vote, the veto of the mayor shall be effectual unless overruled by unanimous vote of all the members of such council; PROVIDED, upon the return by the mayor without his approval of any ordinance, order or resolution, authorizing the issuance of bonds or certificates of indebtedness without the submission for ratification to the

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electors of the city, or granting a franchise, such ordinance, order or resolution shall not be passed over the veto of the mayor, and shall be of no more force and effect than if the same had failed of passage by the council in the first instance.

Section 4. Time limited for approval by the mayor.- No ordinance, order or resolution shall be signed by the mayor within four (4) days after the same is presented to him and if the same shall not be returned by him on the tenth (10) day, (Sunday excepted), after it shall have been presented to him, it shall have the same force and effect as if approved by him.

Section 5.- Indorsement by clerk.- The city clerk shall endorse upon each such ordinance, order and resolution the time when the same was delivered to the mayor and the time when it was returned to his office by the mayor.

Section 6. At the first meeting of the common council in each year, they shall proceed to elect by ballot from their number, an acting mayor, who shall preside over the meeting of the council during the absence of the mayor from the city, or his inability from any cause to discharge the duties of his office and who shall exercise all the powers and discharge all the duties of the mayor. And acts performed by him, when acting as mayor as aforesaid, shall have the same force and validity as if performed by the mayor. In the absence of the mayor and acting mayor from the city, or the inability of both of them to discharge the duties of the office, then it shall be the duty of the city council to elect some one of their members as mayor pro tempore, who shall exercise all the powers and discharge all the duties of mayor and all of whose acts, when acting as mayor pro tempore shall have the same validity as if performed by the mayor.

Section 7. Control of police.- The mayor shall be the chief magistrate of the city and shall have command and control of its entire force of police and shall appoint the members of the police force subject to the confirmation of the city council.

Section 8. Shall sign bonds, obligations and contracts.- The mayor shall sign all bonds and obligations of the city and all warrants drawn on the city treasurer, unless otherwise provided by law: He shall also sign all contracts entered into by the city.

Section 9. Process and notices.- He shall, upon service of notice or process upon him in an action or proceeding against the city, forthwith inform the city attorney and the city council thereof.

Section 10. Annual report.- He shall make an annual written report at the close of each fiscal year to the city council of the general condition of the affairs of the city.

CHAPTER IV.

DUTIES OF CLERK.

Section 1. The city clerk shall keep the corporate seal and all the papers and records of the city and keep a record of the proceedings of the city council at whose meetings it shall be his duty to be present. The city clerk shall have power to take acknowledgements, administer oaths and affirmations and copies of all papers filed in his office and transcripts of any record in his office certified to by him under the corporate seal shall be evidence in all courts in like manner as if the originals were produced by the clerk at the trial. He shall perform all other services by law required of the clerk of cities and townships within the city, and when services are required of him by public law for which compensation is provided such services shall not be regarded as services for the city and he may retain such compensation in addition to the salary paid to him by the city.

Section 2. Warrant accounts.- He shall keep accounts of warrants drawn on the treasury in separate books, and shall note thereon the cancellation thereof whenever the same shall be cancelled and shall keep such other books and records as shall be necessary for the preservation of the accounts of the transactions and business of the city, and all books, lists, and records heretofore kept, or which shall be kept in the clerk's office, and copied thereof by him certified, shall be competent evidence of all matters shown by them.

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Section 3. He shall keep accounts with the city treasurer and all other receiving or disbursing officers of said city; in such accounts he shall charge such officers with all amounts received by them from all sources of revenue and with all city property in their hands or control, as such officers, and credit them with all amounts disbursed, or property disposed of on proper authority, and with all money or property turned over to the city or to their successors in office.

Section 4. To countersign bonds and other evidences of indebtedness.-

He shall countersign all bonds, warrants or other evidences of indebtedness of the city; and no such bond, order, certificate or other evidence of indebtedness shall be valid until so countersigned.

Section 5. To examine accounts of other officers.- He shall examine the reports, books, papers and vouchers of the treasurer and of other receiving and disbursing officers and perform such other duties pertaining to his office as the city council may prescribe, and it shall be the duty of the city clerk to make a report of the financial condition of the city to the city council at any time the same may be required by the city council.

Section 6. To report financial condition to the city council.- He shall, within thirty (30), days after the close of each fiscal year report to the city council the financial condition of the city, and shall at the end of each fiscal year make out and cause to be published in the official paper of the city, a condensed statement showing the financial condition of the city, the amount of moneys received for the year and from what sources, and also the amount disbursed and for what purposes.

Section 7. To countersign all contracts.- He shall countersign all contracts made in behalf of said city, and no such contract shall be valid for any purpose until so countersigned, and he shall be the custodian of all such contracts. He shall keep a book in which he shall record all contracts which shall be open to the inspection of all parties interested.

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Section 8. Auditing and adjusting claims.- It shall be the duty of the city clerk to draw all warrants on the city treasurer for all claims and accounts against the city audited and allowed by the city council and to designate and specify upon each claim and account so audited and adjusted, the particular fund out of which the same shall be paid.

Section 9. Supervision of official publications.- The city clerk shall have the supervision of all printing and official publications ordered by the city council. He shall cause to be published in the official paper the minutes of all proceedings of the city council as soon after each meeting as practicable.

Section 10. Assistants.- The city clerk shall have power to appoint a deputy city clerk who shall hold his office during the pleasure of the city clerk and shall have authority under the direction of the city clerk to perform all the duties of the city clerk. The city clerk shall be responsible for the acts of his deputy and shall compensate such deputy for his services.

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CHAPTER V.

FINANCES-DUTIES OF TREASURER.

Section 1. Bond and management of finances;- The city treasurer shall give a bond in amount double that of all moneys likely to be in his control at any time, to be executed by at least four (4), sureties who shall justify in an aggregate amount equal to the penal amount of the bond, and which shall be approved by the city council, filed and recorded in the office of the city clerk, and shall be conditioned for the safe keeping of all moneys of the city that may come into his possession, and for the faithful performance of his duty, and the record of such bond, as well as the original, shall be evidence of the contents and execution thereof.

Section 2. To receive all moneys.- The treasurer shall receive and safely keep all moneys belonging or accruing to the city and shall keep accurate and detailed accounts thereof.

Section 3. To apportion and deposit all moneys received.- The treasurer shall upon receipt of all moneys on any such account, or upon any such settlement, forthwith credit the same to the various funds to which the same belong, or for which they are levied, and shall deposit the same in the name of the city, subject to the order of the treasurer, in the various depositories which shall have been designated by the city council, and in so doing shall not deposit with any such depository an amount in excess of one half ($\frac{1}{2}$), of the penalty of the bond furnished by such depository, and all interest that may accrue to any such moneys shall be credited to the current expense fund.

Section 4. To pay money on warrants.- He shall pay money out of the city treasury, except for principal and interest of bonds and certificates of indebtedness, only upon warrants properly drawn, the same having ^{been} first authorized by the city council, which warrants

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shall specify the purpose for which they are drawn and the fund out of which and the person to whom they are payable; and upon the payment and receipt by him of any such warrant; he shall cancel and file the same, and it shall not again be issued; and he shall keep separately warrants drawn upon each particular fund; provided, that no ordinance, warrant or order of the city council or of any officer, board or department of the city shall have any power or authority to authorize the city treasurer to divert any separate funds or money from the specific purposes for which the same were ⁵⁴estimated, levied, collected and credited as aforesaid, or to borrow or transfer any balance or portion of one of the said funds to the credit or for the use of another fund except in the purchase of certificates as by this Charter provided.

Section 5. To make reports to the city council.- The treasurer shall make monthly statements to the city council, and to each board or department having control of any fund, of the amount received and disbursed on account of each fund controlled by the city council or such board or department respectively, and a statement of the amount of money in the various funds deposited with each depository and in his hands. He shall manage all moneys in the interest of the city, and shall endeavor to secure interest thereon consistent with their safe keeping, but shall not postpone or defer any payment after the same becomes due in order to secure interest. He shall, whenever he shall deem the public interest to so require and whenever notified so to do by the city council, withdraw all funds from any depository, and notify the city council thereof, and shall thenceforth deposit no more therein until directed so to do by the city council.

Section 6. Bank or trust companies may become depositories.- Any bank or trust company having its principal place of business in this state may be designated as a depository of the moneys in the city treasury as hereinbefore provided; and when so designated shall execute to the city a bond in double the amount it may desire or agree to receive on deposit, which shall also be executed by five (5), or more sureties, none of whom shall be acting officers of such bank or

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trust company, who shall justify in an aggregate amount double the penalty of the bond, conditioned for the safe keeping and payment of the funds so deposited and interest thereon, all of which bonds shall be approved by the city council. Such bonds shall be filed and recorded in the office of the city clerk, and whenever required so to do by the city council, such depositories shall furnish a new bond and other sureties to be likewise approved, and the record of any such bond, as well as the original, shall be evidence of the contents and execution thereof, and when the moneys in the hands of the treasurer shall be deposited with any such depository as herein provided, the treasurer and his sureties upon his official bond shall be exempt from all liability by reason of the loss of said moneys while so deposited.

Section 7. General fund.— There shall be maintained in the city treasury a fund to be designated as the general fund, into which shall be paid all moneys not specifically designated as belonging to any particular fund, and from which there may be drawn to be credited to any such fund, or for such other purposes as may be designated by law or authorized by the city council.

Section 8. Current expense fund.— There shall be maintained in the city treasury a fund to be designated as the current expense fund into which shall be paid all moneys derived from licenses, rents, fines, costs and judgments collected in favor of the city and not otherwise appropriated and which shall be further maintained by an annual tax levy to be made by the city council of an amount necessary; and prior to the levy of such tax, a certain proportion of said fund shall by the city council be set aside ^{to} ~~by~~ each of the departments dependent thereon, to defray the expense of the ensuing year and no more money than the sum thus appropriated shall be expended in such fiscal year for such department. Out of such funds shall be paid all the salaries and expenses of the city government not otherwise provided for, and the cost of the operation of all the departments of the city government having no special funds created therefor, and the purchase, construc-

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tion and repair of all appliances and apparatus used therein.

Section 9. Permanent improvement fund.- There shall be created, and maintained in the city treasury a fund to be designated as the permanent improvement fund, into which shall be paid all the money received from the sale of any property or permanent improvements of the city not otherwise provided, and such amounts from time to time as may be realized from the sale of any bond or certificate of indebtedness issued on account of such ^{fund} ~~fund~~, and all amounts collected on special assessments advanced in first instance out of such fund, and the principal sum of all excess of assessments for water mains and sewers. It shall

be further maintained by an annual tax levy to be made by the city council of an amount necessary. And out of such fund shall be paid the cost of acquiring all real property and appurtenances, and the construction and improvements of all buildings and permanent improvements which shall not be otherwise provided for out of other funds, and also the costs of all local improvements, unless the city council maintains a permanent improvement revolving fund; and the city shall maintain such fund sufficient to meet the expenses of all such improvements as the same become payable as in this Charter provided.

Section 10. Permanent improvement revolving fund.- There shall be created, if necessary and maintained in the city treasury, if the city council shall so direct by ordinance, a fund to be designated as the permanent improvement revolving fund into which shall be paid all accounts realized from the sale of certificates of indebtedness issued on account of such fund and the principal sum of all special assessments and benefits assessed and levied on account of any local improvement, as well as all taxes levied on account of such fund, and there shall be paid out of such fund that portion of all local improvements for which special assessments are levied, and such amount of excess assessments as may in any instance be refunded, and for no other purpose whatever.

And the city shall maintain such fund sufficient to meet the expenses of all such improvements as the same become payable, as in this Charter provided. And the city council may from time to time by ordinance by a two thirds (2-3) vote, issue, negotiate and sell certificates of indebtedness for the creating and maintaining of such fund, and such certificates shall not be sold for less than par and accrued interest, and shall bear interest at a rate not to exceed five (5) per cent per annum and shall be made payable from said fund and at such times as the city council may determine,

PROVIDED, HOWEVER, That the amount of certificates so issued shall not exceed at any one time two fifths (2-5) of one per cent of the total value of the taxable property of such city according to the last preceding assessment for the purposes of taxation.

Section 11. Poor fund.- There shall be created and maintained in the city treasury a fund to be designated as the poor fund. It shall be maintained by an annual tax levy to be made by the city council of an amount necessary therefor. And out of such fund shall be paid the cost of caring for all paupers which are properly a charge to the city.

Section 12. Water and light works account.- If the city should establish and maintain its own water and light works, or either, an accurate account shall be kept for all rents, fines, dues, assessments, excess of assessments and appropriations made on account of or accruing in the water and light works department, or either, and the proceeds of the sale of all bonds issued on account of the same, the proceeds of any property used or operated by the department, and also all salaries and expenses incurred in the operation of the department and the maintenance of the system of water and light works, or either, and the cost of the construction, enlargement, alteration or repair of any and all stations, machinery and hydrants, and of the proportion of the cost of any main or appurtenances chargeable to the city and not specifically assessable. But all moneys received for rents, fines and dues shall be paid into and accredited to the

current expense fund, and receipts from assessments and other sources shall be paid into and accredited to the proper fund above provided. And an appropriation shall be made to defray the expenses of the department from the current expense fund, as appropriations are made for other departments.

Section 13. Interest fund. There shall be maintained in the city treasury a fund to be designated as the interest fund, which shall be maintained by an annual levy upon all the taxable property of the city of an amount which, in addition to any balance remaining in said fund, shall be sufficient to pay the interest to become due during the next fiscal year, upon all the bonds or debts of the city. There shall be maintained in the city treasury such other funds, and the city treasurer shall perform such other duties as are prescribed by law or ordinance.

Section 14. Sinking fund.- In order to provide for the certain payment of bonds of the city, the city council shall establish and maintain a sinking fund. It shall provide by ordinance for the care investment and security of such funds but shall have no authority to abolish the same until all the bonds of the city are fully paid, nor shall it divert said fund, nor any revenue nor increase thereof for any purpose.

Section 15. How maintained.- Such fund shall be maintained by an annual tax levy of one tenth (1-10) of one per cent of the assessed valuation of all the taxable property of the city which shall be made by the city council at the time of levying taxes for other purposes. There shall also be placed in such fund any and all amounts of taxes collected to pay the interest on the bonds of the city in excess of the amount of such interest, if any there be, and all revenues of the city not otherwise appropriated.

Section 16. Sinking fund commissioners.- The mayor, city clerk and treasurer shall constitute a board of sinking fund commissioners, and the city council shall define such of their duties as are not herein

enumerated. Such commissioners shall have charge of such sinking fund, and by and with the consent of the city council may invest the same in the bonds and certificates of the city and such other bonds as are permitted for the investment of the permanent school fund of the state of Minnesota, and in the bonds of any city in the state of Minnesota, and in such county and school bonds in the state of Minnesota as may be approved by the city council, and not otherwise.

Section 17. Bond of city in sinking fund not cancelled.- In case of investment in the bonds or certificates of the city for whose benefit the said sinking fund is established, such bonds or certificates shall not be cancelled before the maturity thereof, but shall be held by said commissioners, and the interest thereon paid over and applied to the increase of such sinking fund.

Section 18. Payment of bonds from sinking funds.- Whenever the principal of any bonds or certificates of the city shall become due such commissioners shall, by and with the consent of the city council, dispose of such of the bonds or certificates belonging to such funds as, with the money on hand belonging to the same, shall be necessary to pay such bonds or certificates.

Section 19. Discontinuance of sinking fund tax.- Whenever the amount of such sinking fund shall, with the interest or revenue thereof computed to the time of the maturity of the bonds of the city, be sufficient to pay all of said bonds at the maturity thereof, the levy of the one mill tax above provided for shall be omitted, but in case, by reason of decrease of interest or depreciation of investment or other cause, such funds shall become insufficient, said levy shall be resumed.

Section 20. Action against commissioners.- In case the sinking fund commissioners, or other city officers, shall violate or neglect to perform any of the provisions of this section, any tax payer of the city or any owner of any of its bonds shall have the right to maintain in any court of competent jurisdiction any proper action to enforce com-

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pliance herewith. The substantial maintenance of the provisions of this and the preceding section for the payment of the principal and interest of the bonds of the city is hereby declared to be part of the contract with the holders of any bonds or certificates of indebtedness of the city that may thereafter be issued, and shall be kept inviolate.

Section 21. Bonds for sinking funds.- Whenever such sinking fund shall be insufficient to pay all the bonds of the city that may at any time become due or when it shall by the city council be deemed advisable and for the interest of the city to take up any outstanding bonds of the city not due which may be offered for sale by the holders thereof, the city council may issue the bonds of the city to run, not to exceed thirty (30) years, on such terms as to place of payment and rate of interest as may be deemed advisable, to such an amount as may be necessary to meet such deficiency or to take up and refund such bonds not due, provided that the refunded bonds shall in no case draw a higher rate of interest than the bonds so taken up.

Section 22. The city council shall on or before the 10th. day of October of each year levy an annual tax upon all property in the city, taxable under the laws of this state for the purpose of defraying and paying all the expenses, obligations and liabilities existing or authorized by this Charter, and the said levy so made, as aforesaid, shall be reported by the city clerk forthwith to the county auditor of Clay County and shall be entered upon the tax duplicate of said county and collected annually in like manner as county and state taxes are collected.

Section 23. No bonds to be issued except as provided therein.- Neither the city council nor any officer or officers of said city shall, except as in this Charter provided, have authority to issue any bonds.

CHAPTER VI.

POWERS AND DUTIES OF THE CITY COUNCIL.

Section 1. Legislative power vested in the city council.- The legislative power and authority of the city shall be vested in the city council composed of the aldermen and mayor as herein provided.

Section 2. The city council shall biennially on the first Monday in April next succeeding the city election organize, and at the time of its organization proceed to elect such officers as may be necessary for the transaction of its business. Such election shall be by ballot and the affirmative vote of the majority of all the members elect shall be necessary to elect.

Section 3. Rules and special meetings.- The city council shall prescribe rules for its own guidance and the time for its regular meetings, and provide for the calling of special meetings. No business shall be transacted at a special meeting unless the same shall have been specified in the call therefor.

Section 4. Quorum.- A majority of the members shall constitute a quorum, but less than a majority may adjourn from time to time, and a minority as well as a majority may compel the attendance of absent members.

Section 5. Canvassing votes.- The city council shall have power to and it shall, canvass the returns of votes cast at all city elections and declare the results thereof, and shall be the judge of the election and qualifications of its own members.

Section 5. Ordinances and resolutions.- Every legislative act of the city shall be by ordinance or resolution. The style of all ordinances shall be "The city council of the city of Barneaville do ordain as follows": No ordinance except for general appropriations, shall con-

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tain more than one subject, which shall be expressed in its title, nor shall any ordinance be amended after its introduction so as to change its original purpose.

Section 7. Readings of an ordinance.- No ordinance shall be introduced except at a regular meeting, at which meeting it shall have its first reading. Its second reading shall be had at subsequent regular or adjourned regular meetings occurring not less than one (1) week after its first reading and such ordinance shall not be amended after the meeting at which it receives its second reading. It shall receive its third reading and be passed only at a regular or adjourned regular meeting occurring at least one (1), week subsequent to the time at which the second reading was had.

Section 8. Passage of ordinances and resolutions.- Every ordinance order and resolution except as in this act otherwise provided, shall be passed by a majority vote of the members of the city council, taken by yeas and nays, which shall be entered upon its journal. It shall then ^{with} forth before it takes effect, be presented to the mayor for his approval as herein provided. Every ordinance, order and resolution shall be published once in the official newspaper of the city before it takes effect. No vote of the city council shall be reconsidered or rescinded at a subsequent meeting unless at such meeting there are present as large a number of its members as were present when said vote was taken.

Section 9. Contracts awarded and warrants drawn pursuant to resolution. The award of every contract and order for the payment of money shall be made and authorized only by resolution except that the pay roll of city officers or employees whose salaries or compensation have been fixed by law or resolution may be passed and warrants ordered therefor by motion.

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Section 10. Two thirds vote required.- Every ordinance, order and resolution appropriating money or creating any liability (or for the issuing of certificates of indebtedness in anticipation of tax or assessment levies), awarding or approving of any contract for the payment of money, ordering any condemnation of private property, shall require a two thirds (2-3), vote of all the members of the city council.

Section 11. Issuance of bonds and incurring of indebtedness.- Any ordinance or resolution authorizing the issuance of any bonds of the city shall require the affirmative vote of two thirds (2-3), of all the members of the city council;

PROVIDED, HOWEVER, that before such bonds shall be issued the question shall be submitted for ratification to the electors of the city at the next regular city election, or at a special election called for that purpose, the form of ballot to be used at which shall be prescribed by the city council. If two thirds of all the electors voting upon such question shall vote in favor of the issuance of such bonds, then said ordinance or resolution shall take effect and be in force; otherwise the same shall become null and void;

PROVIDED, HOWEVER, That upon petition of twenty five per cent of all the electors voting at the last preceding election, the city council shall submit the question of issuing bonds for any purpose, to a vote of the people as above provided.

PROVIDED, HOWEVER, That a majority vote of the members of the city council shall be sufficient to pass an ordinance or resolution authorizing the issuance of bonds for the purpose of paying maturing bonds of the city without submission to the electors;

PROVIDED, FURTHER, That the amount of all such bonds, except as hereinafter provided, shall be controlled by the limitations herein made on the power to issue bonds, and the city council shall not in any manner. either with or without the vote of the people, authorize the issuance of any bonds or create any indebtedness of the city in excess of the said limit herein prescribed, except as hereinafter provided.

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Section 12. Whenever a special or private ordinance is enacted, the city council shall require a bond from the beneficiary thereof to protect the city against any claim or damages resulting from the grant of right or privilege under such ordinance, the amount of such bond and the conditions thereof to be fixed and determined by the city council, and further security may be required at any time and the terms of the grant shall so provide.

Section 13.- Aldermen not to solicit appointment.- No member of the city council shall demand request or solicit any board, officer or employee connected with the city to engage or appoint to a position in said city, and upon proof of the violation of this provision the office of such member shall become and be declared vacant by the city council.

Section 14. Witnesses before city council.- The city council, and any of its committees authorized by it so to do shall have the power to compel the attendance of witnesses, and the production of books, papers and other evidence at any of its meetings, or before such committee and for that purpose may issue subpoenas or attachment in any case of inquiry or investigation, to be signed by its president, or the chairman of such committee, as the case may be, which shall be served and executed by any officer or person authorized by law to serve subpoenas and other process.

Section 15. Punishment for refusal to testify.- If any witness shall refuse to testify to the facts within his knowledge, or to produce any book or papers in his possession, or under his control, the city council shall have power to fine or commit him for contempt.

Section 16. Witness not to be excused.- No witness shall be excused from testifying touching his knowledge of the matter under investigation in any such proceeding or inquiry before the city council or any committee thereof, or before any officer of the city having power to conduct the investigation, but such testimony shall not be used against him in any criminal prosecution except for perjury.

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Section 17. City council to control finances.-Limit on bond issue.-
The city council shall control the property and finances of the city and shall have the power to appropriate money for city purposes only, except as hereinafter provided; To provide for the payment of its debts and expenses; to borrow money on its credit for city purposes and to issue bond therefor, as hereinbefore provided; to issue bonds in the place of, or to supply means for paying maturing bonds or to consolidate or fund the same;

PROVIDED, that the total indebtedness of the city except as hereinafter provided, shall not thereby be made to exceed ten (10), per cent of the total value of the real property of the city according to the last preceding assessment for purposes of taxation;

PROVIDED, HOWEVER, That the certificates of indebtedness issued for the creation and maintenance of the permanent improvement revolving fund shall not be considered as a portion of the indebtedness of the city for the purposes of this section.

PROVIDED, FURTHER, That the city council shall set aside annually such portion of the gross income from any water and light works, or either, of the city as they shall determine to create a sinking fund for the payment of any water and light bonds, or either, as they become due.

Section 18. Power to levy taxes and make assessments.- It shall have the power to fix the rate of, subject to the restrictions in this Charter contained, and levy and collect general and special taxes for municipal purposes on real and personal property within the city, and to levy assessment for local improvements, and to prescribe the procedure in making local improvements and assessing therefor, in so far as the same is not fixed and prescribed by the terms of this Charter.

Section 19. Condemnation.- It shall have power to acquire by condemnation, dedication or otherwise, lands for and to lay out, open, widen, and extend streets, alleys, avenues, bridge approaches, parks and public grounds, and to establish the grade and width of such streets, alleys,

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and avenues, and to change the same; and to acquire by condemnation or otherwise easements for slopes, cuts and fills; by condemnation or otherwise to extend or widen 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 or other corporation and to acquire by condemnation or otherwise the right to take, use or divert water from any lake, stream or water course for water supply of said city.

Section 20. Improvement and vacation of streets.- It shall ~~have~~ have power to extend, widen, straighten, grade, drain, pave, repave, macadamize or otherwise improve any street, alley or public ground, and to lay or order laid sidewalks, curb and gutter thereon, also to establish a building line for any residence, avenue or street, and to prevent the erection of buildings in front of such line, but no such building line shall be established on any street or avenue until a majority of the owners of the property affected thereby fronting on such street or avenue shall have petitioned the city council therefor.

Section 21. Maintaining and altering water courses and lakes.- It shall have the power to build and maintain bridges and viaducts, to ²deepen, widen, dock and cover, wall, alter or change the channel of any water course within the city, and by condemnation or otherwise, to acquire the lands and rights necessary therefor, and may remove any obstruction or unsightly structures from any pond or water course in the city and prevent the dumping of any garbage therein.

Section 22, Approval of plats.- It shall have the sole power to accept and approve plats of additions within or adjoining the city, and to prescribe the width and location of streets and alleys required in such plats of property.

Section 23. Light, water and transportation plants.- It shall have power to provide for the lighting of streets, avenues and public grounds and buildings, and to purchase, acquire or establish gas, electric, and other lighting plants and to furnish gas, heat and electricity to persons within the city limits on such terms as it may provide; to pur-

chase, procure or establish water works and to provide water for the use and convenience of the inhabitants of the city, and to prescribe and fix the charge for the same and the manner in which the same shall be paid; and to provide for systems of public transportation within the city and to regulate the operation thereof. It shall also have the power to make contracts with individuals, firms or corporations for the use of water for protection against fire and other purposes. It shall also have the power to contract with individuals, firms or corporations for the use of electric or gas light for street lighting and other purposes. Such contracts for water and electricity and gas to be made for such time as the council may deem for the best interests of the city, not to exceed ten (10), years for water and not to exceed five (5), years for gas or electricity for street lighting and other public purposes.

Section 24. Power to maintain buildings.- It shall have power by a two thirds (2-3) vote of all the members thereof to erect, provide for, improve and repair a city hall, police stations, fire stations, armories, jail, workhouse, poorhouse, hospitals, public cemeteries, libraries, markets, and market houses, public pounds, post houses, quarantine hospitals, dumping places, dumping stations, sewer stations and other appurtenances, accessories, apparatus, and equipments in connection therewith as may be necessary for the transaction of the business of the city, either within or without its limits, for its government, or the operation of its departments; and to acquire by purchase, gift or condemnation lands for sites for said buildings or to be used in connection therewith; and to acquire by purchase/condemnation or otherwise, and real property for municipal purposes, and by resolution passed by a two thirds (2-3) vote of all its members, to sell or authorize the sale of any of the same.

Section 25. Depositing of funds and auditing of accounts.- It shall designate the depositories of the funds of the city treasurer, and by resolution approve all bonds given for the safe keeping thereof, and it shall examine and audit the accounts of all city officers.

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Section 26. Specific powers.- The city council shall have power by ordinance, not inconsistent with the constitution and laws of the state and the United States, as follows:

First.- To regulate the use of, and to prevent and remove encroachments on and over streets, alleys, avenues and public grounds and public places, and to prevent injury to the same, and to regulate the construction of coal holes, and hatchways, and coverings, and guards therefor in sidewalks, or to prohibit the same.

Second.- To regulate and prevent throwing or depositing of ashes, offal, dirt, garbage, or any offensive matter in or upon any street, alley or public ground or place, and to require the owner or occupant of any premises to keep the sidewalks along or in front of the same free from snow, ice or other obstructions.

Third.- To regulate openings and excavations in streets, alleys and public grounds, for the laying of gas, electric conductors, water mains and pipes, or for other purposes, and the building of sewers, tunnels and drains and to regulate the construction and use of all structures and conduits underneath the streets, alleys and sidewalks.

Fourth.- To provide for and regulate cross-walks, curb and gutter.

Fifth.- To regulate and prevent the use of streets, sidewalks and public grounds for signs, sign posts, awning, awning posts, telegraph poles, horse troughs, racks, and the posting and distributing of hand bills and advertisements; to prevent the incumbering of streets with vehicles, lumber, boxes or any other things or material, to remove and abate any nuisance, obstruction and encroachment upon the walks, streets, alleys and public grounds; to provide for and regulate the erection of hitching posts and rings for fastening horses, or to prohibit the same in any portion of the city, at its discretion; and shall prohibit the piling of snow or other incumbrances upon any street by persons owning or operating any railway along or across the same.

Sixth.- To regulate and control or prohibit the placing of poles and the suspending of wires along or across the streets and alleys and to require any and all wires within prescribed limits or through

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out the city to be placed, as it may designate, beneath the surface of the streets or sidewalks, and to require any poles already erected or wires already suspended to be removed and the wires likewise to be placed in conduits beneath the surface of the street, and to compel any and all such wires, pipe and other constructions and conduits to be placed in a common area beneath the surface, upon such terms as it may designate.

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

Eighth.- To regulate and prevent the flying of flags, banners and signs across the streets, and to regulate the construction and use of bill boards adjacent to or near the streets or public places.

Ninth.- To regulate and prohibit traffic and sales upon the streets, sidewalks or public places.

Tenth.- To regulate the speed of horses and other animals, vehicles, cars and locomotives upon the streets and within the limits of the city, and to compel persons to fasten their horses or other animals attached to vehicles or otherwise, while standing in the streets.

Eleventh.- To name and change the names of streets, avenues, alleys and other public places.

Twelfth.- To regulate the use of all bridges, viaducts, tunnels, drains, sewers, and cess-pools within the city, and to prohibit the use or maintenance of cess pools and privies in such portion of the city as it may designate and to compel sewer connections, in such portions and to make the same and to assess the cost thereof on the property so connected with the sewer.

Thirteenth.- To regulate the numbering of houses and lots and to compel the owners of houses and other buildings to have the numbers of such houses and buildings shown conspicuously thereon or adjacent thereto.

Fourteenth.- To prevent and regulate or prohibit the locating, construction and laying of street railways tracks in, under or over any street, alley or public place;

PROVIDED, that it shall grant all public franchises and rights

over, upon or under the public streets and highways of the city only to such parties as will contribute to the city the greatest amount of money for and give the best service in the exercise of the same.

Fifteenth.- To provide for and change the location grade and crossing of any railroad, and to compel railroad companies to lower and bridge over their tracks and to fence their respective railroads, or any portion of the same and to construct cattle guards on the streets and public roads, and to keep the same in repair within the limits of the city. In case any railroad company fails to comply with any such ordinance it shall be liable for all ~~and~~ damages to the owner of any cattle, horses or domestic animals which he may sustain by reason of injuries thereto while on the tracks of such railroad company, in like manner and extent as under the general laws of the state relative to the fencing of railroads and actions to recover such damages may be instituted before any justice of the peace or other court of competent jurisdiction.

Sixteenth.- To require railroad companies to keep flagmen and to erect and maintain gates at railroad crossings of streets, and to provide protection against injury to persons and property in the use of such railroad.

Seventeenth.- To compel railroad companies to raise or lower the tracks to conform to any grade which may be established in said city and to keep such tracks on a level with the street surface and to compel the planking of such tracks by such railroad company so that they may be crossed at any place on the said street, alley or highway.

Eighteenth.- To compel and require railroad companies to make and keep open and in repair ditches, drains, sewers and culverts along and under their railroad tracks, so that filthy and stagnant water cannot stand on their grounds or right of way, and so that the natural drainage of adjacent property shall not be impeded.

Nineteenth.- To restrain the pollution of the waters of any creek, river, pond, lake or water course within or adjacent to the city; to prevent the dumping of refuse or other matter therein, and to provide for the cleansing and purification of water, water courses and canals and the draining and filling of ponds or pools on private property

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whenever necessary to prevent or abate nuisances and to compel the owner or occupant of any building or grounds to remove from the premises owned or occupied by him all such offensive substances as the city council or commissioner of health may direct, and upon his default to authorize the removal or destruction thereof by some officer of the city at the expense of said owner or occupant.

Twentieth.- To compel the owner of low ground where water is liable to collect and become stagnant to fill or drain such low places, and upon his default to authorize such draining or filling at the expense of such owner, and to make the expense of the destruction or removal of such substance specified in subdivision 19, or expense of filling or draining any such low ground, a lien upon the property from which such substances are removed or destroyed, or in which said low ground is filled or drained, and to make a special assessment for the same upon such property, to be collected as other special assessments are collected.

Twenty first.- To fix the amount, terms and manner of issuing licenses not inconsistent with law;

PROVIDED, That no license shall be issued for a longer term than one year, and

PROVIDED, FURTHER, that nothing herein contained shall effect laws now in force pertaining to the issuances of licenses for the sale of intoxicating liquors.

Twenty second.- To license and regulate or prohibit conductors of gift, fire, auction or bankrupt sales, itinerant merchants and transient vender of merchandise, and tax the proceeds of their sale, and to license and regulate runners, agents and solicitors for stages, cars, vessels, public houses or other things or persons.

Twenty third.- To license and regulate or prohibit and to suppress billiard, pool, pigeon hole tables, pin alleys, bowling alleys, shooting galleries, taverns and victualling houses.

Twenty fourth.- To license and regulate the exhibition of common showmen and shows of all kinds, and the exhibitions of caravans, menageries, circuses, concerts, theatrical performances, skating rinks and all places of amusement and museums for entrance into which money is

charged.

Twenty fifth.- To license and regulate auctioneers, pawnbrokers, second hand dealers and junk dealers and to compel all such persons to keep such records of their transactions as it may direct, and make report thereof.

Twenty sixth.- To license and regulate news boys, boot blacks, fortune tellers, clairvoyants., astrologists and mas sage doctors.

Twenty seventh.- To license and regulate or prohibit hackmen, draymen, express men, porters and all other persons engaged in carrying passengers, baggage or freight, and to regulate their charges therefor, and to prescribe standing places or stations within the streets or near railway stations where the same may remain while waiting for business, and to prohibit the same from standing or waiting for business at any other place than the places so prescribed.

Twenty eighth.- To license and regulate all peddlers, book agents, canvassers, street hawkers, venders and public cryers doing business in the city.

Twenty ninth.- To tax, license and regulate distillers, breweries and pawnbrokers.

Thirtieth.- To license and regulate the sale of intoxicating liquors.

Thirty first.- To license and regulate butchers stalls and shops, and stands for the sale of game, poultry, meat, fish and perishable provisions.

Thirty second.- To license and regulate plumbers and to regulate sewer and water connections of all kinds and the laying of branch sewer and water pipes.

Thirty third.- To license, regulate and control or prohibit the carrying of concealed weapons and to provide for the confiscation of the same.

Thirty fourth.- To regulate and license the keeping of dogs, and to prevent the same running at large, and to authorize the destruction thereof in a summary manner.

Thirty fifth.- To regulate and prevent the storage of gunpowder, dry pitch, resin, coal oil, benzine, naphtha, gasoline, turpen-

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tine, hemp, cotton, nitro-glycerine, or any products thereof, and other combustible or explosive materials within the city, and the use thereof, and of lights in stables, shops and other places, and the building of bon fires; and to regulate and restrain the use of firecrackers, torpedoes, roman candles, skyrockets, and other fireworks.

Thirty sixth.- To prevent and suppress riots, routs, affrays, disturbances, disorderly assemblies, cock fights, dog fights, sparring matches, and all brutal or depraving exhibitions or sports.

Thirty seventh.- To restrain and punish vagrants, mendicants street beggars, and prostitutes, and to regulate bathing and swimming in waters within the city limits, and to prevent and punish drunkenness, fighting assaults, batteries and disorderly conduct and obscenity in the city; and to prohibit within the city the circulation, sale or exhibition of libelous obscene and immoral publications, prints, pictures, advertisements and illustrations, and any printed matter naturally tending to provoke a breach of the peace or impair the morals of the community.

Thirty eighth.- To suppress bawdy and disorderly houses and houses of ill fame and assignation within the limits of the city.

Thirty ninth.- To restrain and prohibit lotteries, and to prohibit all descriptions of gambling and playing of cards, dice, hazard, roulette, slot machines and other games of chance; the use of black boards, lists and tickets for the purpose of gambling; all pool rooms and betting rooms; and the selling of pools and making of books on horse races or other contests real or fictitious; To suppress and prohibit all mechanisms and devices used for gambling or betting; to prohibit all fraudulent practices and the use of fraudulent devices, and to authorize the destruction of all instruments used for the purpose of gambling, or other unlawful purposes as aforesaid.

Fortieth.- To establish pounds. to restrain the running at large of horses, mules, cattle, swine, sheep, poultry, geese or other animals and to authorize the detaining and sale of the same.

Forty first.- To establish and regulate the location of markets and market houses and to provide for the use thereof.

Forty second.- To regulate the making and sale of bread, and prescribe the weight and quality of the bread in the loaf, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Forty third.- To provide for and regulate the inspection of meats, poultry, fish, game, butter, cheese, lard, eggs, vegetables, flour, meal, milk, fruits and other provisions, and to provide for the taking and summarily destroying of any such provisions which are unsound, spoiled or unwholesome.

Forty fourth.- To provide for and regulate the place and manner of weighing hay and straw and selling the same and measuring and selling fire-wood, coal and lime.

Forty fifth.- To provide for a standard of weights and measures and for the inspection and sealing of all weights and measures and to enforce the keeping and use by vendors of proper weights and measures duly tested and sealed.

Forty sixth.- To prescribe the limits within which wooden buildings shall not be erected nor placed, nor repaired without permission; and to direct that all and any buildings within ^{such} fire limits, when damaged by fire, decay or otherwise to the extent of fifty (50), per cent of the value shall be torn down and removed, and to prescribe the manner of ascertaining such damages; and to provide for requiring the owners of buildings or other structures, which shall have been destroyed or partially destroyed by fire or otherwise, to take the same or any part thereof down, to prevent accident, and in case of refusal or neglect of said owners to so take the same down when ordered by officers designated by said city council, then to cause the same to be done at the expense of the owner, the cost thereof to be made a special assessment on the land on which said buildings stand, and collected as other special assessments.

Forty seventh.- To prevent the dangerous construction and conditions of chimneys, fire places, hearths, stove, stove-pipes, ovens and boilers, and apparatus used in and about any building or manufactory, and to cause the same to be removed or placed in a safe condition when considered dangerous; to regulate and prevent the carrying on of

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manufactures, dangerous in causing and permitting fires. To prevent the depositing of ashes, or accumulation of shavings, rubbish or other combustible material in unsafe places, and to cause all such buildings and enclosures as may be in a dangerous state to be placed in a safe condition, and to make provisions to guard against fire and to prevent the spreading of fires.

Forty eighth.- To declare what shall be a nuisance, to abate the same, and to impose fines upon parties who may create, continue or suffer nuisances to exist.

Forty ninth.- To provide for and compel the reporting and recording of all births and deaths within the city.

Fiftieth.- To regulate or prevent the burial of the dead within the city, and to regulate and determine the manner in which bodies have been buried in a vault or tomb or other place for the purpose of burial may be removed, and to regulate and control the location of cemeteries and exhumations, and to vacate and cause the removal of bodies interred in any cemetery not existing according to law.

Fifty first.- To direct the location and regulate the management and construction of stock yards, slaughter houses, packing houses, renderies, tallow chandlers, store houses for hides, bone or glue houses, gau works, soap factories, dye houses and tanneries, within the limits of the city, or within a distance of one (1) mile within the limits thereof.

Fifty second.- To direct the location and regulate the use and construction of breweries, dispensaries, stables, livery stables, blacksmith shops and foundries within the city limits.

Fifty third.- To declare what is a nuisance and prohibit any offensive or unwholesome business or establishment within or within one (1) mile of the limits of the city.

Fifty fourth.- To compel the owner of any grocery, cellar or soap and tallow chandlery, pig sty, privy, or other unwholesome or noxious house or place, to cleanse, abate or remove the same, and to regulate and prescribe the location thereof.

Fifty fifth.- To regulate or prohibit the keeping of any lumber yard, and the places of piling lumber, wood, and other combustible material within the fire limits of said city, and to require any person maintaining any lumber, shingles or lath piles or mill wood yards

in the city to remove the same when they become dangerous to any building or buildings or other property near the same.

Fifty sixth.- To establish and enforce rules for the use and regulations of all buildings maintained by the city.

Fifty seventh.- To prevent or regulate the rolling of hoops, playing of ball, flying of kites, or any other amusement or practice having a tendency to annoy persons on the streets or sidewalks, or to frighten horses, and to regulate the use of bicycles and other vehicles on sidewalks and streets.

Fifty eighth.- To regulate and provide for the removal or destruction throughout the city in such districts or on such streets and avenues, and in such manner as the council may direct, of any and all swill, offal, garbage, ashes, street sweepings, barn yard litter, manure, rubbish, yard cleanings, and the contents of privy vaults, cess pools, and sinks, decaying animal matter and dead animals or any other vile or unhealthy material and to provide for the removal to a point beyond the city limits of any and all such matter or things, and the city council is hereby authorized and empowered to make and enter into contracts with persons or corporations for such removal of such material and substances or any of them, upon such terms and conditions as it may deem best and for any time not to exceed two (2) years.

Fifty ninth.- To do all acts and make all regulations which may be necessary and expedient for the preservation of health and the suppression of disease, and to make regulations to prevent the introduction of contagious, infectious or other diseases in the city, and to make quarantine laws, and to enforce the same within the city., and to regulate, prevent and control the landing of persons, baggage, merchandise or property from cars or other conveyances, whereon are infectious or contagious diseases or disorders, and to make such disposition of such person or property as to preserve the health of the city, and to prevent infected cars, or other conveyances from coming within or near the limits of the city.

Sixtieth.- To establish and regulate public wells, cisterns, hydrants and reservoirs.

Sixty first.- To regulate and control the quality and

measurement of gas, and to prescribe and enforce regulations for the manufacture and distribution of gas, and to inspect gas and gas meters, and to control and regulate the measurement and use of electricity and electrical apparatus for furnishing light, heat and power in the city.

Sixty second.- To establish offices for inspectors, weighers, gaugers, scalers, electricians, market masters, quarantine masters and such other officers as may be necessary to carry into effect the inspection laws of the city and the powers herein granted; and to regulate the duties of said officers and to authorize and direct said officers to enforce and carry into effect the provisions of any ordinance passed hereunder.

Sixty third.- To prohibit and punish cruelty to animals and to require the places where such animals are kept to be maintained in healthful condition; and to inspect and regulate dairies and dairy products, and to regulate persons engaged in selling milk within the city.

Sixty fourth.- To regulate and require licenses to be obtained for the pursuit and prosecution of such occupation or kind of business not hereinbefore expressly referred to and provided for, as in the opinion of the city council may require regulation and, in general, to adopt all such measures and to establish all such regulations, in cases where no express provision is hereinbefore made, as the city council shall from time to time ^e₁ deem necessary for the promotion of the health, comfort and safety of the inhabitants, the preservation of peace and good order, the suppression of vice and the enhancement of public welfare in said city.

Sixty fifth.- To license, regulate and control the employment and occupation of minors on the public streets and other places.

Sixty sixth.- To compel the owners or keepers of vacant property within the city limits, to keep the same clear of any brush, timber, or other material or substance liable to receive or communicate fire to adjoining property, and in case the owner or owners of such property shall neglect or refuse to remove the same within ten days after being notified so to do by the city council, either personally

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or by one publication in the official newspaper of the city, said city council shall have the authority to have the same done at the expense of owner or owners, and in case such owner or owners shall refuse to pay such expense, shall have the right to assess the same against said property, and to make, enforce and collect such assessment as other assessments for local improvements for benefits are made enforced and collected.

Sixty seventh.- No rule, resolution or ordinance shall be passed appropriating money or obligating the city to pay any money, and no franchise shall be granted save by a two thirds (2-3), vote of all members elect of the city council, and it shall require at least a majority vote of all members of the city council for the council to do any official act, save to adjourn and save as in this Charter otherwise expressly prescribed.

Sixty eighth.- To provide for the levy and collection of poll tax within the city.

Section 26⁴. Other powers.- The city council shall prescribe by ordinance all regulations proper and necessary to carry into effect any and all powers granted by this charter, and may provide by such ordinances for the punishment of the violation of any of the same by subjecting the offender to pay a fine not to exceed one hundred dollars (\$100), or to be confined and kept at hard labor in the work house of the city, or upon the public works, or to be confined in any place of confinement maintained by the city, or in case there is no such place, then to be confined in the county jail of Clay County, not to exceed the term of ninety (90), days, and may provide that such imprisonment may be culminate or for an indefinite term, not to exceed ninety (90), days subject to suspension or termination by reason of or during good behaviour of the person so imprisoned.

Section 27. Revocation of license.- The city council shall have power to revoke any license granted by it.

Section 28. No perpetual franchise or privilege shall ever be granted; nor shall any exclusive franchise or privilege be granted unless the question of granting the same shall have been first submitted to the qualified voters of the city and adopted by a majority voting at such election on the question, nor in such case for a longer period than ten years.

Section 29. Protection of streets and city property.- It shall have the power to punish any person wilfully damaging any sidewalk, pavement or appurtenance to the water works or sewerage system, or to any other property in or upon the public works of the city, and shall have power to punish interference with or the withholding any property of the city by any officer thereof, or any party, and to require any officer, member or employe of any department to produce the books and accounts thereof at any time for inspection and examination, and at the expiration of the time for which elected, appointed or employed, to turn over the same and all property in his possession to the proper custodian thereof or to his successor in office, and to require reports at any time from any such person of the condition or operation of the business under his management.

Section 30. Appointment by ballot.- The appointment of any officer by the city council shall require the affirmative vote of a majority of all its members, taken by roll call and recorded by the clerk.

Section 31. Letting of contracts.- It shall have power to let contracts for the erection, improvement and repair of any of the public works or buildings of the city, and for the performance of any work required to be done, and material to be furnished in carrying into execution its powers and the operation of its department;

PROVIDED, HOWEVER, That the city council may authorize the doing of the same by the employes of the city under the direction of the department in charge of such work or building when cost thereof shall not exceed three hundred dollars (\$300).

AND PROVIDED, That where proposals have been received for the

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doing of any public work, if the lowest of such proposals be higher than the estimate of the cost of such work, the city council may, if it deem^s it for the best interest of the city so to do, by a two thirds (2-3) vote of all its members elect, direct such work to be done by day's labor.

Section 32. Advertisements.- It shall let no contract for the performance of work or the furnishing of material or supplies or property or lighting service involving the expenditure of more than one hundred dollars (\$100), by the city, nor authorize the purchase, or sale of any property of a greater value than one hundred dollars (\$100), nor grant any public franchise, nor authorize the sale or negotiation of any bond or evidence of indebtedness issued by the city, nor designate any depository for the money of the city, except upon advertisement for proposals thereof as provided by law.

Section 33. Contract to lowest bidders.- It shall let all such contracts to the lowest responsible bidder who will enter into the contract and give security for the performance thereof, and shall let no contracts to any party in default to the city in the performance or by reason of any other contract. It shall sell all property, bonds and other evidences of indebtedness only to the highest bidder for cash therefor, and shall not sell or negotiate any such bond or evidence of indebtedness below its par value, the same being its face value and accrued interest. It shall designate as city depositories only such duly incorporated banks or trust companies in this state as shall furnish the bonds required by law, and shall be satisfactory to the city council.

Section 34. Bonds of contractors.- It shall require of every party entering into a contract with the city or any of its departments or accepting any license, immunity, privilege or franchise from or under the city pursuant to any power of authority herein vested, a bond to be approved by the city council for the full and faithful performance of such contract or the just and lawful exercise of the powers and privileges conferred, which bond shall be sufficient in amount to indemnify the city against ^{any} loss or damage that may be sustained by a breach of

contract, or any wrong committed in the exercise of such power or privilege.

Section 35. Advertising for proposals.- Every advertisement for proposals shall be made by application in the official newspaper of the city, at least twice, of a notice containing a general description of the contract to be let or the property to be purchased or sold, or bond or other indebtedness to be negotiated, or funds to be deposited, or franchise to be granted, and shall invite sealed proposals therefor, which proposals shall be filed with the city clerk at such time as shall be designated in said advertisement, not less than one (1) week, after the last publication. All proposals shall be opened and read by the city clerk in the presence of the city council before any of the same are acted on or accepted.

Section 36. Designation of official papers.- The city council shall biennially, at its second regular meeting, or as soon thereafter as practicable, designate some newspaper printed in the English language, which is, and shall have been printed, published and of general circulation in the city, for one (1) year prior to its designation as the official paper of the city, and shall let the contract for publishing the ordinances and proceedings of the council, and other public notices required by law, to such newspaper, as other contracts are required to be let. The compensation paid for printing shall never exceed two thirds (2-3) of the amount allowed by law for legal advertising. Whenever in the city no newspaper is published any paper printed in the English language and published in Clay County may be designated as the official paper;

PROVIDED, That if each and all proposals shall fix a price in excess of the maximum as herein provided, or if no proposal shall

be received, then in either event the city council may adopt such other method for publication of ordinances, proceedings and other matters as it may determine, the compensation in no event to exceed the amount herein provided.

Section 37. Power to enter private property.- It may authorize the entry into any lands or tenements for the purpose of carrying into effect its inspection laws, and may enter upon any lands to lay any branch sewer or water main, or drain any marsh, or make any changes or erections in, upon or about any water course.

Section 38. Vacation of streets.- The city council of the city shall have the sole and exclusive power to vacate and discontinue public grounds, streets, alleys, or highways within the city, and also all county territorial and state roads, whether actually traveled and used at the date of the petition for such vacation or not. No such vacation or discontinuance shall be granted or ordered by the city council except upon the petition of a majority of the owners of property on the line of such public ground, street, alley or highway, resident within the city, which petition provided for in this section shall state the facts and reasons for such vacations and be accompanied by a plat of such public grounds, streets, alley or highway, county, territorial or state road proposed to be vacated and shall be verified by the oath of one (1), of the petitioners. The city council, if it deem it expedient that the matter be proceeded with, shall order the petition to be filed of record with the city clerk, who shall give notice by a publication in the official paper of the city for four (4) weeks at least once a week, to the effect that such petition has been filed as aforesaid, and stating in brief its object, and that said petition will be heard and considered by the city council at a certain time and place therein specified, and less than ten (10), days from the expiration of said publication, the city council at the time and place appointed, shall investigate and consider the said matter and shall hear the testimony and evidence on the part of the parties interested, and ^{there} upon, after hearing the same, may by resolution passed by a two thirds (2-3) vote of all the members elect declare such public ground, street, alley or highway, county, territorial or state road vacated which resolution shall, before the same shall go into effect, be published as in the case of ordinances, and thereupon a transcript of such resolution, duly certified by the city

clerk, shall, before the same shall take effect, be filed for record and duly recorded in the office of the register of deeds¹ of the county where in the property is situated.

Section 39. Vacation to take effect.-- when.-- No vacation shall take effect until the value of the premises so vacated shall have been deposited in the treasury of the city, which value shall be fixed by a resolution of the city council by a two thirds (2-3) vote of all the members elect, and in no case shall be less than the proportionate average value of the abutting property according to the last previous assessment for taxation;

PROVIDED, In case the city council shall have approved a plat embracing the premises proposed to be vacated, which plat dedicates to the public use, in the opinion of the city council, land equivalent in area and value to the premises sought to be vacated, ~~then~~ the city council may by a two thirds (2-3) vote of all its members, accept said plat and pass said resolution of vacation, and after said plat and resolution have been recorded in said register of deeds¹ office said vacation shall be valid without the payment of any money into the said city treasury;

PROVIDED, FURTHER, however, that vacations and discontinuances of such county, territorial or state road may be granted upon a petition of a majority of the owners of property through which the same or portions thereof sought to be vacated exist, when such owners shall have platted the same and shall have provided in lieu of such road sufficient streets in the opinion of the city council, of which fact the approval and acceptance of such plat and the resolution of vacation shall, when recorded, be conclusive evidence.

Section 40. Prohibiting any relief from assessment, etc.-- The city Council⁶ shall not have the power to relieve any citizen from the payment of any lawful tax, assessment, judgment, fine or license, bond or security, nor to exempt him from any burden imposed upon him by law or ordinance or to ordain the payment of any demand not authorized and audited according to law. The city council shall not have power to ordain or authorize any compromise of any disputed demand arising under contract, nor any allow-

ance therefor or therein, except as provided in the contract therefor. The city council shall not have authority nor power to authorize or ordain the payment of any damages or claim for alleged injuries to persons or property except by resolution, adopted by a vote of two thirds (2-3), of all the members elect.

Section 41. Compilation of laws and ordinances.- The city council may from time to time provide for the compilation and publication, in book or pamphlet form, of the ordinances and regulations of the city, rules of the city council, police rules, regulations adopted by the board of health, and such resolutions of the city council as it may designate; and may provide for the distribution by sale or otherwise of copies of such compilation and publication; and no such books or pamphlets so issued, purporting on the title page to have been published by authority of the city council and to contain the ordinances of the city or other matter in this section above mentioned, shall be prima facie evidence of their contents in all courts of this state; And in absence of evidence to the contrary, all ordinances, rules, regulations and resolutions found therein shall be presumed to have been duly and legally passed, promulgated or adopted. Copies duly certified by the city clerk of the city, of ordinances, or rules, regulations or resolutions in writing or other papers in his official custody, or any records kept by him in his official capacity shall also be received as prima facie evidence of their contents in all courts of this state. All justice courts and other city courts located in the city shall take judicial notice of all ordinances duly passed by the city council.

Section 42. Care of streets.- The city council shall have and maintain an active care, supervision and control of all public highways, bridges, streets, alleys, public squares and grounds, as in this Charter provided, and of all other public improvements and public property within the limits of the city, and shall cause all streets which have been opened and graded under the authority of the city or with its assent, to be kept open and in repair and free from nuisances.

Section 43. City exempt from liability for injuries caused by railway cars.- The city shall be exempt from all liability or damages caused by railroads either to person or property, when said railroads or engines or cars are passing along, across, under, over or upon any street, lane, alley or other public way within the limits of the city.

CHAPTER VII.

POLICE DEPARTMENT.

Section 1. Organization.- There shall be maintained in the city a police department of which the mayor shall have control and supervision and shall be the chief executive officer and head, and which shall consist of a chief of police and such other officers of police, patrolmen and employees as may from time to time be authorized by the city council. Such chief of police and all other officers of police, patrolmen and employees so authorized shall be appointed and may be removed by the mayor of the city.

Section 2. Eligibility.- No person shall be eligible to appointment as chief of police or other officer of police, or patrolman, who is not a citizen of the United States and able to read and write the English language, and all officers, patrolmen and chief of police shall have been for at least one year residents of the city before they are eligible to such appointment.

Section 3. Extra police.- On occasions of large public gatherings or in case of riot, unlawful assemblages or disturbances requiring additional police force the mayor may appoint such number of special or temporary police officers at a compensation not exceeding three dollars (\$3), a day, as he may deem necessary; but such special or temporary appointment shall not continue in force for more than one (1) week, without consent of the city council.

Section 4. Appointments.- The mayor shall, within twenty four (24) hours after making any appointment of chief of police, officer of police, patrolman or employe, or after removing any person from office in said department, notify the city clerk in writing of such appointment or removal.

Section 5. Powers of police.- The chief of police and all regular police officers of the city shall possess the powers of constables at common law, and under the statutes of this state, and in addition thereto shall have power to serve and execute any warrant, summons, commitment, writ, subpoena and process issued by the city justice of the city and shall have authority to pursue and arrest in the city or in any part of the state beyond the limits of the city any person charged with, or who has committed any violation of any ordinance of the city, or any offense or crime within the limits of the city;

PROVIDED, That no such officer shall have power to arrest without a warrant, except in cases in which arrests without a warrant are authorized by the General Statutes of the state; and the violation of any city ordinance shall be deemed a public offense.

CHAPTER VIII.

FIRE DEPARTMENT.

Section 1. The city council shall establish and maintain a fire department which shall be either volunteer or paid, and shall establish rules and regulations for the same and generally to establish such necessary measures for the prevention or extinguishment of fires as may be necessary and proper.

Section 2. If the city council shall maintain a paid fire department it shall at the meeting of its organization appoint a chief of fire department. If a volunteer fire department is maintained in the city, the members of such volunteer fire department shall elect their own chief subject to the confirmation of the city council.

Section 3. Duties of engineer.- The chief of fire department under the direction of the city council, shall have the custody and general superintendence of the fire department, engines and engine houses, hooks and ladders, hose and horses, public cisterns and other property and conveniences for the extinguishment and prevention of fire; and it shall be his duty to see that the same are kept in order, and to see that the rules and regulations and ordinances relative to the fire department and to the prevention and extinguishment of fires are duly executed; and to make detailed and particular report of the state of the department and conduct of the members thereof and such other matters as may be required by the rules and regulations of the city council.

Section 4. The city council shall designate such officer of the fire department as it may select to act as fire marshal of the city, to see that the ordinances of the city relating to building and care of chimneys and respecting all other precautions against danger from fires are not violated, and who shall have power and be fully authorized to enter any building or dwelling house at all hours between seven o'clock in the morning and six o'clock in the evening, and examine all chimneys, stoves, furnaces, pipes and other parts of such buildings and see that the ordinances of the city respecting the same, are enforced. It shall further be the duty of such fire marshal to examine particularly into the case of every fire which shall happen within the city and to make and keep a brief record of the same, and make report thereof to the council at the first regular meeting every month.

Section 5. Duties of fire force.- The city council shall prescribe the duties of the chief of fire department and other members of the fire department at fires, and may vest in them such power as shall be deemed necessary to preserve property from being stolen, and to extinguish and prevent fires; but in no case shall any member of said council, or any officer of the city direct the chief of fire department or assistants

during any fire; the council may provide for the removal and keeping away from fires of all idle, disorderly or suspicious persons, and may confer powers for that purpose upon the chief of fire department, fire marshal and other officers of the city; they shall require reports from the chief of fire department and other officers in charge of the department of all fires, fire alarms, losses and insurance on all property destroyed, and keep proper record thereof, and it shall be competent for the city council to provide for the sending of any steam or fire engines, with hose and apparatus, to the relief of any community in the vicinity of the city.

Section 6. Destruction of buildings adjacent to fires.- Whenever any building of the city shall be on fire it shall be the duty of and be lawful for the chief of fire department or assistants to order and direct such or any other building in the vicinity, which he may deem hazardous and likely to communicate fire, or any part of such buildings, to be pulled down and destroyed and no action shall be maintained against any person or said city therefor.

CHAPTER IX.

CITY ASSESSOR.

Section 1. Duties.- The city assessor shall qualify in the manner and form prescribed by general law. The city assessor shall perform all the duties required by the General laws of the state respecting the listing of property for taxation, and shall commence his duties on the first day of May of each year.

Section 2. Board of equalization.- The board of equalization shall consist of the mayor and the city council. Such board shall meet at the city council chamber on the fourth Monday in June of each year, and the members shall be sworn according to law as such board of equalization, and at such time and from day to day thereafter as they may adjourn to, such board shall proceed to amend, revise and equalize the assessments.

assessments made by the assessor. Such board of equalization shall receive as compensation for their services the sum of twenty five cents per hour for the actual time employed. It shall be the duty of the city assessor to attend all meetings of the board of equalization and the city clerk shall keep the minutes of their proceedings.

Section 3. Powers of board.- Such board shall be vested with all the powers which are or may be vested in county boards of equalization, so far as applicable, but shall not be restricted as to reducing the aggregate sum of real or personal property as returned by the assessor. It shall complete such equalization on or before the second Tuesday in July of each year, and when completed the same shall be certified to the county auditor by ^{the} a board of equalization.

Section 4. Grievances.- Any person deeming himself aggrieved by any assessment may appear before such board personally or by counsel and present his grievance for consideration and the said board shall have power to compel the attendance of witnesses and the production of papers, and to examine any person as to any taxable property in the city.

CHAPTER X.

CITY ATTORNEY.

Section 1. Appointment.- The city council, at the meeting of its organization, shall appoint a city attorney, whose term of office shall be two (2) years.

Section 2. Duties.- He shall be the legal adviser of the city and shall perform all the services incident to the office, and shall appear in and conduct all civil suits, prosecutions and proceedings in which the city shall be directly or indirectly interested, except as otherwise provided in this Charter, and, when necessary, take charge of and conduct all prosecutions for violation of city ordinances and perform all such other duties as may be required of him by law.

Section 3. Opinions.-- He shall, when so required, furnish opinions upon any subject submitted to him by the city council or any of the committees or boards thereof. He shall advise the city council and all city officers in respect to their official duties. He shall personally attend all the meetings of the city council and such of its committees or boards as shall request his attendance, and no board, department nor officer of the city shall have or employ any other attorney in connection with their official duties.

Section 4. Appeals.-- The city attorney, unless otherwise ordered by the city council, shall have the right to decide whether or not, in any case in which the city is a party in any court, to take an appeal from any order, judgment or determination of the court, and in case of any such appeal, or in case of suing out any writ of error, certiorari, mandamus, attachment or any writ from any court, the city shall not be required to give any bonds, either for costs, supersedeas or any other purposes whatever. The city attorney shall notify the city council of the result of all actions in which the city is a party, or in which it is interested.

CHAPTER XI.

CITY JUSTICES AND CONSTABLES.

Section 1. The justices of the peace of the city shall be styled the city justices, and shall possess all the authority, power and rights of a justice of the peace for the county of Clay, under the laws of the state and in addition thereto shall have jurisdiction to hear and try all complaints for the violation of any provision of the charter and any ordinance, by-law, rule or regulation made or adopted pursuant thereto or by virtue thereof, and all cognizable before a justice of the peace in which the city is a party, and all writs, prosecutions and proceedings in which the recovery of any fine or forfeiture or penalty under any by-law, ordinance or regulation of the city or its charter and in all

cases of offenses committed against the same; and the said city justices shall have jurisdiction in cases of larceny and may hear and try the same when the amount claimed to have been stolen does not exceed in value the sum of twenty dollars (\$20).

Section 2. The city justices shall have jurisdiction in all cases civil and criminal, arising under this charter and of the ordinances passed pursuant thereto, to proceed to hear and try in a summary manner, before a jury all persons charged with the violation of any such provision of said charter and of ^{all} the ordinances past pursuant thereto. In all prosecutions for assault, batteries and affrays, and for all other offenses not indictable, and in all suits and proceedings before said city justices the same form and proceedings shall be had and used when not otherwise directed as are established and required to be had in use in similar proceedings by the laws of this state, before justices of the peace, and appeals from the judgments and decisions of said city justices, shall be allowed as now provided by law for appeals made from judgments rendered by the justices of the peace.

Section 3. ^{all} In cases of conviction for assaults, batteries and affrays, within said city, and in all cases of conviction under any ordinance of the city for the breach of the peace, disorderly conduct, keeping house of ill fame, or frequenting the same, and of keeping and maintaining ill governed and disorderly houses, the said city justices shall have power, in addition to the fines and penalties imposed to require such offenders to give security for their good behavior for a period not exceeding six (6), months, and in a sum not exceeding five hundred dollars (\$500).

Section 4. Said justices shall also have power in all criminal actions within their jurisdiction to try and determine, when the punishment is by imprisonment or by imprisonment in default of payment of fine, to sentence any offender to hard labor in any work house established by the city for that purpose; or in case of male offenders, to sentence them to hard labor upon any public work or imprisonment in said city as herein provided; in cases of offenses against the city ordinances the

said justices shall have the same power in cases of contempt as justices of the peace, under the laws of this state now have.

Section 5. Whenever vacancy shall occur in the office of city justice the city council shall have power to fill such vacancy by appointment of some person thereto for the unexpired term thereof.

Section 6. The constables of the city shall be styled the city constables and shall possess all the authority, power and rights of the constables for the County of Clay under the laws of this state.

Section 7. The city justices and constables shall receive no compensation from the city; but shall receive and keep such fees for their services as they receive and as are allowed township justices and constables by the laws of this state.

PROVIDED, HOWEVER, That in all criminal and quasi proceedings and offenses, the fines paid to and collected by said city justices, shall monthly be turned over to and be receipted for by said city treasurer.

CHAPTER XII.

DEPARTMENT OF HEALTH.

Section 1. How constituted.- The department of health shall consist of a commissioner of health, who shall be a physician regularly licensed to practice as such, and shall be the executive officer of the department, and of such number of assistants, inspectors, quarantine officers and subordinate employees as may be determined by the city council, and of a board of health, which shall be composed of the commissioner of health and three (3), qualified electors of the city to be appointed by the city council.

Section 2. Health commissioner.- Appointment and salary.- The commissioner of health shall be appointed by the mayor and he shall

hold his office during the pleasure of the mayor. The salaries of the commissioner of health and his assistants shall be fixed by the city council

Section 3. Bonds.- The health commissioner, before entering upon the duties of his office, shall execute a bond to the city in such sum, and with such sureties and upon such conditions as the city council may determine; such bond to be approved by the city council.

Section 4. Duties of health commissioner.- The commissioner of health shall enforce the laws of the state and ordinances and regulations of the city relative to the public health, and shall abate all nuisances injurious thereto, and prevent or exterminate contagious or infectious diseases among animals; control all quarantines, hospitals and morgues maintained by or located in the city; and all cemeteries, crematories, vaults and burial places maintained or regulated by the city, and inspect all such food products exposed for sale in the city as may be required by law or ordinance, and shall grant all burial permits, and regulate the disposition of all dead bodies.

Section 5. Powers of the board of health.- The board of health shall have such powers and perform such functions and duties as are prescribed by law for the local boards of health, and such further duties as shall be prescribed by law or ordinance.

Section 6. Reports.- Reports of all births, deaths and of all cases of contagious and infectious diseases in the city shall be reported by the physician or other person in attendance thereon to the commissioner of health, and he shall keep a record of such reports, and no human body shall be buried or deposited in any cemetery or vault in the city or be removed therefrom, or from said city or otherwise disposed of, without the permit of the commissioner of health.

Section 7. The commissioner of health shall give to the mayor, or other city authorities, all such professional advice and information as

they may require, with a view to the preservation of the public health, and whenever he shall hear of the existence of any malignant, contagious or pestilential disease, he shall investigate the same and adopt measures to arrest its progress.

Section 8. It shall be the duty of the commissioner of health to enforce all laws of the state and ordinances of the city relating to the sanitary regulations of the city, and cause all nuisances to be abated with all reasonable promptness; and for the purpose of carrying out the foregoing requirements, he shall be permitted at all times, from the rising to the setting of the sun, to enter into any house, store, stable or other building, and to cause the ^{floors} ~~cellars~~ to be raised, if he shall deem it necessary, in order to gain a thorough examination of cellars, vaults, sinks or drains; and to cause all privies to be cleaned and kept in good condition, and to cause all dead animals or other noxious or unwholesome things or substances to be burned or removed or disposed of, as the commissioner of health may direct.

Section 9. In order to carry out the provisions of the foregoing section, it shall be the duty of the commissioner of health to serve a notice in writing upon the owner, occupant or agent of any lot, building or premises in or upon which any nuisance may be found, or who may be the owner or cause of any such nuisance, requiring them to abate the same in such manner as he may prescribe within reasonable time;

PROVIDED, that it shall not be necessary in any case, for the commissioner to specify in his notice the manner in which any nuisance shall be abated, unless he shall deem it advisable to do so; and such notice may be given or served by any officer who may be directed or deputed to give or make the same; and if such owner, occupant or agent shall neglect or refuse to comply with the requirements of such order within the time specified they shall be subject to the penalty hereinafter provided, and it shall be the duty of the said officer to proceed at once, upon the expiration of the time specified in said notice, to cause such nuisance to be abated; and,

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PROVIDED, FURTHER, that whenever the occupant, owner or agent of the premises in or upon which any nuisance may be found is unknown or cannot be found, the said commissioner shall proceed to abate the same without notice, and in either case the expense of ^{such} abatement shall be collected from the person or persons who may have created, continued and suffered such nuisance to exist.

Section 10. Any expense incurred by the health department in enforcing the provisions of the above sections shall be recovered in an action of debt, to be brought in the name of the city against the party offending.

Section 11. It shall be the further duty of the commissioner of health to visit and examine or cause to have visited and examined all sick persons who shall be reported to him as laboring or supposed to be laboring under any yellow or ship fever, small pox, cholera, or any infectious or pestilential disease, and cause all such infected persons to be removed to the cholera, smallpox or other hospitals, or to such other safe and proper place as he may think proper, not exceeding three miles from the city, and cause them to be provided with suitable nurses and medical attendance, at their own expense, if they are able to pay for the same, but if not then at the expense of the city.

Section 12. It shall be the further duty of the commissioner of health to cause a notice, printed or written in large letters to be placed upon or near any house in which any person may be affected or sick with smallpox, scarlet fever, or any infectious, pestilential or epidemic disease, upon which shall be written or printed the name of such disease, and if any person or persons shall deface, alter, mutilate destroy or tear down such notice without the permission of the commissioner of health, or of the health officer, such person or persons shall be subject to the penalty hereinafter provided, the occupant of any house upon which notice shall be placed or posted as aforesaid shall be held responsible for the removal of the same, and if the same shall be removed without the permission of the health commissioner, such occupant

shall be subject to the penalty hereinafter provided.

Section 13. The commissioner of health may take such measures as he may from time to time deem necessary to prevent the spread of small pox, by issuing an order, requiring all persons in the city or any part thereof requiring vaccination to be vaccinated within such time as he shall prescribe; and all persons refusing or neglecting to obey such order shall be liable to the penalty hereinafter provided;

PROVIDED, that it shall be the duty of the commissioner to provide for the vaccination of such persons, as are unable to pay for the same, at the expense of the city.

Section 14. He shall have the power to cause any house or premises to be cleansed, disinfected or closed to visitors and prevent persons from resorting thereto while any person is laboring under any pestilential or infectious disease; he may by an order in writing direct any nuisance to be abated, or unwholesome matter or substance, dirt or filth to be removed from any house or premises, and may prescribe the time and mode of doing so, and take any other measures he may deem necessary and proper to prevent the spread of any infectious, pestilential or epidemic diseases; and any person who shall neglect or refuse to obey the orders, directions and instructions of said commissioner of health shall be subject to a penalty hereinafter provided.

Section 15. It shall be the duty of the commissioner of health to provide the necessary books for keeping a record of all transactions of said department, including the proper registration of births and deaths and such other statistical information necessary for efficient working of said department; and shall also keep on hand all necessary blanks, to be used by physicians and midwives, and furnish them with the same on application.

Section 16.- Any person whosoever who shall violate any clause, provision, requirement, duty or regulation of this Charter, or any rule or

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regulation of said commissioner of health, or physician or health officer in the discharge of his duty, or in charge of any quarantine or any person who shall fail or neglect to comply with any such clause, provision, requirement, duty or orders, or who shall interfere with or in any manner resist any officer or agent of the department of health of the city in the discharge of his duty as herein contemplated or who shall commit any such breach of peace, or be guilty of any act or thing calculated to defeat or interfere with the carrying into effect any part of this act, or any regulation or order of the said commissioner of health, shall, upon conviction, be subject to a fine not to exceed one hundred dollars (\$100), nor less than ten dollars (\$10), or by imprisonment in the city jail not to exceed ninety (90), days, for each offense, together with the costs of prosecution.

Section 17. Copies of the proceedings of said department, of its rules, regulations, by-laws, and books and papers, constituting part of its archives, when authenticated by the commissioner of health, shall be presumptive evidence, and the authentication to be taken as presumptively correct in any court of justice, or judicial proceedings when they may be relevant to the point or matter in controversy of the facts, statements, and recitals therein contained, and the action, proceedings, authority and orders of the said department of health shall at all times be regarded as in their nature judicial and be treated as prima facie just and legal.

CHAPTER XIII.

LOCAL IMPROVEMENTS.

Section 1. Authority to assess cost of grading, etc.- The city council is hereby authorized to fill, grade, level, pave, repave, curb, rail, bridge, gravel, macadamize, sprinkle, plank, clean pavements upon any street, ^{avenue,} alley, lane or highway and to keep the same in repair; also to fill, grade, improve, protect and ornament any public park, square, or ground; also to protect and plant shade or ornamental trees in its

public parks and along its streets and avenues; also to construct, lay, relay and repair sidewalks, retaining walls, gutters, sewers, water mains, drains and pipes for surface water, and private drains in, over or under any street, lane, alley or highway; also to drain marshes or swamps and low grounds within the city; and the whole or any part of the expense of any such improvement may be defrayed by an assessment upon the real estate benefited thereby in proportion to such benefits without regard to cash valuation, to be determined and levied in the manner hereinafter provided.

Section 2.- Plans and specifications.- Prior to the passage of any resolution ordering any such improvement, the city council shall call for plans and specifications of such proposed work with an estimate of the probable expenses thereof, to be made by an engineer appointed by the city council, and presented to the city council for its approval and the same shall immediately and upon approval thereof by the city council be filed with the city clerk of the city for the inspection of all parties interested.

Section 3.- Notice of proposed improvement and invitation for proposals. The city council shall then designate a time not less than twenty days distant and a place at which it will meet and act in relation to the doing of the proposed work, and direct that a notice be given by the city clerk of such meeting and the time and place thereof, and that in the meantime sealed proposals for the doing of such work and the furnishing of all materials therefor will be received by the city clerk. In such notice shall be stated the location of the proposed work and reference shall be made to the plans and specifications and estimates so filed with the city clerk. Said notice shall be given by two publications thereof in the official newspaper of the city, the last of which publication shall be at least one week prior to the time designated as aforesaid by the city council.

Section 4. Ordering of improvement and award of contract.- At the time and place designated in such notice opportunity shall be given to any and all parties interested to be heard for or against such proposed work, and the clerk shall, in presence of the city council, open and read all sealed proposals which may have been received for doing such work, and furnishing the material therefor, and the city council may then or thereafter by a two thirds (2-3) vote of all its members, accept the most favor able proposal (such proposal to be that of the lowest responsible bidder) and by resolution authorize the doing of such work or any part thereof, and may direct that a written contract be made therefor with the person whose proposals shall have been accepted; or they may reject all proposals offered and refuse to authorize the doing of such work, or any particular part thereof, or may readvertise for bids therefor; or, if it is deemed by said council to be for the best interests of the city, and the said engineer's estimate is less than the lowest bid aforesaid for work and material, that they may reject all proposals offered, and by resolution passed by a two thirds (2-3) vote of the council authorize the doing of said work under the direction of the said engineer, or said council, in its discretion, from lack of quorum, or for other reason, postpone the consideration and decision of the whole matter, or any branch thereof, to a future time, of which postponement all parties interested shall be required and deemed to take notice. At the time of the award of any such contract the city council shall appropriate from the proper fund, to the credit of such contract, a sufficient amount to defray the cost of such work. The city council shall allow to the contractor, on the first day of each month, an estimate of the amount already earned, which estimate shall be due and payable on the tenth day of the month succeeding the month for which the estimate is allowed.

Section 5. Apportionment of costs.- At the time of the passage of the resolution for the doing of such work the city council may determine what proportion of the entire cost of such improvement shall be defrayed

by an assessment upon the property benefited, and what proportion, if any, shall be ^{Paid} ~~made~~ from the permanent improvement fund of the city, the amount of the bid accepted by the council to be taken as the entire cost; and in case no bid is accepted and in case the city council has authorized the doing of such work under the direction of the said engineer, without contract, then the said engineer's estimate shall be taken as the entire cost of such work for the purpose of assessment.

Section 6. Commissioners to assess benefits.- The city council shall then, or thereafter, appoint commissioners to view the property benefited by such proposed improvement and to assess the cost of such proposed improvement (unless said council shall have determined that a portion only of the expense of such improvement shall be defrayed by assessments for benefits and in such case they shall assess such portion) upon the property benefited by such improvement in proportion to the benefits actually received and without regard to cash valuation;

PROVIDED, That in no case shall said commissioners assess upon any lot or parcel of land any greater amount than the amount of the benefit to such lot or parcel.

Section 7. Meeting and qualification.- Said commissioners shall be notified forthwith by the city clerk by a notice served personally or by mail, of their said appointment, and of a time not less than three (3), nor more than seven (7), days from the appointment when they shall meet at the office of the city clerk. At the time specified in said notice said commissioners shall meet and shall take and subscribe an oath to discharge their duties as such commissioners with fidelity and to make a just and impartial assessment of the costs of such proposed improvements which oath shall be filed with the city clerk. In case of failure of any said commissioner to qualify, the city council may appoint others to fill the vacancy, who shall be notified and qualified as those appointed in the first instance.

Section 8. Notice given by commissioners.- Said commissioners shall give notice by two publications in the official paper of the city that they will on a day designated in such notice (which shall be at least ten (10) days after the first publication), meet at a place designated in such notice and view the premises to be benefited by such improvement and assess thereon the proportion of the amount necessary to pay the expenses of the improvement of such part thereof as can be so assessed, and hear such allegations and proofs as any persons may offer.

Section 9. Proceedings and award of damages.- At the time and place specified in such notice, and from day to day thereafter, and at such other places in the city, as they may adjourn to, said commissioners shall attend and view the property to be effected by such proceedings, and hear allegations and proofs that may be offered by persons interested therein and for that purpose may administer oaths. After viewing the premises and taking the evidence offered, such commissioners shall prepare and make a true and impartial appraisalment of the cost of such improvement.

Section 10. Assessments for benefits.- The said commissioners shall then assess the amount of the expenses of the improvement, less such portion thereof as the city council shall order, upon the land and property benefited by such improvement, but in no case shall the amount of said assessments exceed the actual benefit to the lot or parcel of land so assessed. If in the judgment of said commissioners the whole amount of such expenses of the improvement shall exceed the actual benefit to the property subject to assessment, they shall so indicate in their report, and shall state the amount of such excess.

Section 11. Report of commissioners.- Said commissioners shall prepare and report to the city council their appraisalment and assessment list containing their assessment for expenses, which list shall contain a brief description of each tract or parcel of property assessed, the

the name or names ~~of the~~ of the owners thereof, so far as known to said commissioners, and the amount assessed against each parcel of property; which report shall, upon completion thereof, be filed with the city clerk, by said commissioners, for presentation to the city council.

Section 12. Notice of presentation to the city council.- Upon the filing of such report, the city clerk shall give notice to all interested parties, by one publication in the official paper of the city, of the filing of such report and that he will, at the meeting of the city council named in said notice, or as soon thereafter as practicable, present the same to the city council for consideration and action; which publication shall occur at least five (5) days before such presentation. Such published notice shall contain descriptions of the several lots and parcels of land and the amount assessed against such lot or parcel, together with the names of the owner or owners of the same as nearly as the same can be readily ascertained.

Section 13. Presentation of report and objections thereto.- Such report shall be presented to the city council in accordance with such notice, and shall lie over until the next regular meeting thereof occurring one week or more thereafter. Any person whose property is to be assessed for said improvements may at any time within ten (10) days of the publication of such notice, file with the city clerk, who shall present the same to the city council, his objections to such assessment; which objections shall contain a description of the property affected and shall specify the particular irregularity of which he complains, as to amounts assessed, or as to the proceedings of the city council or commissioners.

Section 14.- Levy of assessment.- When ever the city council shall confirm any such assessment, such confirmation shall make the same final and conclusive upon all parties interested, who have not appealed therefrom, and the city council shall proceed at the same or any subsequent meeting to levy such assessment upon the several parcels of land described

in the assessment last reported by the commissioners, in accordance with the assessment so confirmed, and cause to be made and adopted an assessment roll of the same.

Section 15. Collection of assessments.- Whenever any special assessment shall have been confirmed and adopted it shall be the duty of the clerk to issue a warrant for the collection thereof which shall be under the seal of the city and signed by the mayor and such clerk of the city, and shall contain a printed or written copy of the assessment roll as confirmed and adopted as aforesaid, or so much thereof as describes the real estate and the amount of assessment in each case.

Section 16. Upon the issue of the warrant, the city clerk shall forthwith give notice by one publication in the official paper of the city, that such warrant has been duly issued for the collection of the taxes shown therein, briefly describing its nature and requesting all persons interested to make immediate payment at the office of the city treasurer, and that in default of payment thereof within sixty days after publication of such notice, a five per cent penalty will be added thereto, and the same will be collected at the cost and expense of the person liable for the payment of such assessment. Upon application the city clerk shall, issue a statement of the amount of such special assessment against any lot or parcel of land, and the city treasurer shall, on or before the time above specified for the adding of the penalty, receive payment of the amount shown in such statement, and after said time and until the first Monday in October of that year, shall receive payment of the amount shown in such statement with five per cent added thereto, and give a receipt therefor, and shall keep a correct account of the same, and at the end of each week shall report to the city clerk, all assessments paid during that week and the clerk shall thereupon mark said assessments "paid".

Section 17. Lien of assessment.- All assessments levied under the provisions of the charter shall be a paramount lien on the real estate on which the same are imposed from the date of the warrant issued for the collection thereof is received by the city treasurer for collection.

Section 18. If the assessment charged in any special assessment warrant made for any improvement whatsoever, under the provisions of this charter, shall not be paid prior to the time when a penalty will be added as specified in the notice of the city clerk, a penalty of five per cent shall be added to and collected with such assessment and each and every item thereof remaining unpaid at such date.

Section 19. Return by clerk.- Within five days after the first Monday of October of each year the city clerk shall transmit to the county auditor of Clay County a list, duly certified by him, of all unpaid assessments, included in any special assessment warrants upon which the notice hereinbefore provided to be given by the city clerk shall have been published prior to the first of August of that year, with the penalty hereinbefore provided added thereto. Upon receipt of such list the said county auditor shall enter the several amounts of the said unpaid assessment on the tax list of the city for the ensuing year and levy the same upon the several lots and parcels, as to which the same are respectively chargeable, and the same shall thereupon be collected and payment thereof be enforced as other taxes on real estate are collected and enforced.

Section 20.- Division of assessments.- Whenever the amount of any special assessment upon any lot or parcel of land so transmitted to the county auditor shall exceed the sum of ten dollars (\$10), the county auditor shall divide each such assessment in ten (10) equal parts as nearly as the same can be divided, and shall, in proper books to be kept by him extend the same in proper columns in such manner that said assessment shall extend over ten (10) successive years; the first of

such installments shall be entered by such auditor on the tax list for the city for the next ensuing year, and each successive installment shall be entered upon such tax list each succeeding year thereafter, respectively; said auditor shall at the time of so extending each year's installment of said special assessment on the tax list, add to the amount of each installment after the first installment, interest for one (1) year on the entire amount remaining unpaid at the rate of five per cent per annum, which said interest on the whole amounts unpaid shall be paid each year at the same time and in the same manner as the installment for that year.

Section 21. Paying deferred installments.- At any time after the first of such installments is payable to the county treasurer the whole of the remaining installments may be paid as follows: the county auditor shall, upon request of the county treasurer, deliver to such county treasurer a statement of the total amount of such assessments not theretofore delivered by him to the county treasurer for collection, and shall charge the county treasurer with the amount shown on such statement, and the county treasurer may thereupon receive payment of the assessment shown on such statement and issue receipts therefor.

Section 22. Assessments paid over to city treasurer.- Such assessments when collected, shall be paid over by the county treasurer to the city treasurer, together with all costs, penalties and interest collected thereon at the time of making payment of city taxes to the city treasurer. Said county treasurer shall submit with such payment a statement showing the accurate distribution of the amount so collected to the several funds on account of which the assessment was made. The statement shall apply to the accurate distribution of costs, penalties and interest, as well as to the amount collected, on the original assessment.

Section 23. Numerals used in advertisements.- In all proceedings and advertisements for the levy and collection of such assessments, letters and figures may be used to denote lots, parts of lots, lands and blocks, sections townships ranges and parts thereof, the year and the

amount.

CHAPTER XIV.

MISCELLANEOUS.

Section 1. All action brought to recover any penalty or forfeiture under this charter, or the ordinances, by-laws, or police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city.

Section 2. In all prosecutions of any violation of this charter or of any by-law or ordinance of the city of Barnesville, the first process shall be by warrant.

PROVIDED, That no warrant shall be necessary in case of the arrest of any person or persons while in the act of violating any law of the State of Minnesota or ordinance of the city of Barnesville, but the person or persons so arrested may be proceeded against, tried, convicted and punished or discharged in the same manner as if the arrest had been made by warrant. All warrants, processes or writs issued by the city justices for violation of any ordinance or by-law of the city shall run in the name of the city of Barnesville, and shall be directed to the sheriff or any constable of said county.

Section 3. When any suit or action shall be commenced against the city the service thereof may be had by leaving a copy of the process by the proper officer, with the mayor, or acting mayor, and it shall be the duty of the mayor or acting mayor, forthwith to inform the city attorney thereof, who shall take such other proceedings as by the ordinances or resolutions of the city council may be in such case provided, or as may be needful in the matter.

Section 4. It shall be the duty of the street commissioner to superintend all work and improvements on the streets, bridges, and public

grounds of the city, and carry into effect all orders and ordinances of the city council in relation to work or improvements on the streets, roads, bridges and public grounds of the city. He shall be required to execute a bond with sureties satisfactory to the city council, conditioned for the faithful performance of his duties, and that he will faithfully account for all moneys received by him in his official capacity or belonging to the city.

Section 5. In case any judgment shall be rendered in any court of record against the city for a sum exceeding five hundred dollars (\$500), and no appeal shall be taken therefrom within thirty days thereafter, it shall be the duty of the city attorney to file a certified transcript of such judgment with the city clerk. And it shall be the duty of said city council to include in the next annual levy of taxes to be thereafter assessed and collected, a sum sufficient to pay such judgment with legal interest accrued thereon; the amount so collected shall be credited to the general fund of the city, and such judgment shall thereafter be paid as other claims and demands against said city; but no execution shall issue upon said judgment for a period of nine (9) months after the first annual levy of taxes by the city after the date of filing said transcript of said judgment as aforesaid, with the said city clerk,

PROVIDED, that the said city council may order the payment of such judgment at any time after the rendition thereof, if there shall be sufficient money in the general fund of the city not otherwise appropriated.

Section 6. The following property now or at any time hereafter, belonging to the city, shall be exempt from levy and sale under or by virtue of an execution: engine houses, hook and ladder houses, together with the grounds and lots on which they are situated, and all fire engines, carriages, hooks, ladders, buckets, hose or other fire apparatus used by any company created or authorized by the city council of the city; market houses, and the furniture thereof, city hall and furniture of city council and office rooms, the public streets or other real estate used for public purposes; the quarantine grounds and the buildings erected thereon; the fixtures and appurtenances thereof or any other public property which said city shall own, hold or be interested in for the pub-

lie use or the rents, uses, profits or incomes whereof are due and payable to the city treasurer. Nor shall any real or personal property of any inhabitant of the city or of any individual or corporation be levied on and sold by virtue of an execution issued to satisfy or collect any debt, obligation or contract of the city.

Section 7. Bonds of contractors.- Before any contract whatsoever for the doing of any work or labor or furnishing any skill or material to or for the city shall be valid and binding against the city the contractors shall enter into a bond with the city for the use of the city and also for the use of all persons who may perform any work or labor or furnish any skill or material in the execution of such contract, conditioned to pay as they become due, all just claims for all work and labor performed and all skill and material furnished in the execution of such contract, and also to save the city harmless from any cost, charge and expense that may accrue on account of the doing of the work specified in such contract, and also to complete such contract according to the terms thereof and the contract price, and to comply with all the requirements of this charter; which bond shall be in such an amount as the city council shall determine, not less than the contract price agreed to be paid for the performance of such contract, and shall be duly signed and acknowledged by such contractor and two (2) or more sufficient sureties, and after being approved shall be filed, with the contract, in the office of the city clerk, which said bonds shall be prepared by the city attorney and approved by the city council.

Section 8. Sureties.- The sureties of such bond shall each take and subscribe an oath that he is a resident of the State of Minnesota, and that he is seized in fee of real estate situated in said state and not exempt by law from sale or execution, of the value and worth over and above all incumbrances thereof on the same, for which he is to justify in said bond. More than two (2) sureties may be accepted on such bond and they may justify in separate and different sums less than the sum specified in the bond; PROVIDED, that the aggregate of their justifications

shall be equal to two (2) sureties, each justifying in a sum equal to the amount of said bond.

Section 9. Right of action on bonds.- Whosoever shall perform, or cause to be performed, any work or labor, or furnish or cause to be furnished any skill or material, including any work, labor, skill or material necessary in the repair of any tool or machine and including the use of any tool or machine furnished particularly for any contract and used therefor, in the execution of such contract, at the request of the contractor, his agents, heirs, administrators, executors and assigns, or at the request of any sub-contractor his agents, heirs, administrators, executors or assigns or at the request of the city, in case the city shall have determined such contract, and shall have completed the same at the cost of the contractors, shall be considered a party in interest in said bond, and may bring an action thereon for the reasonable value or agreed price, as the case may be, of the work or labor performed or skill or material or tool or machine furnished in the performance of such contract.

Section 10. Trust companies may be sureties.- Any company organized under Chapter three (3), of the General Laws of Minnesota for eighteen hundred and eighty five, entitled "An act to amend an act entitled an act to authorize the organization and incorporation of annuity, safe deposit and trust companies, approved March, fifth, eighteen hundred eighty three," approved March, fifth, eighteen hundred and eighty five, and any company referred to in and complying with the provisions of Chapter forty two of the General Laws of eighteen hundred and ninety three, entitled "An act relative to recognizances, stipulations, bonds, obligations and undertakings and to allow corporations to be accepted as sureties thereon," approved April, eighteenth, eighteen hundred and ninety three, may, if satisfactory to the city, become sole surety under any bond required by this charter, and in such case so much of the provisions of

this charter as requires two or more good and sufficient sureties shall be considered to be fully satisfied by the execution of any such bond by such corporation, and none of the provisions hereof relating to sureties or approvals shall be required.

Section 11. No action shall be maintained on any such bond unless the same shall be commenced within one year after the cause of action accrues.

Section 12. Monthly estimates.- Estimates shall be allowed monthly on all city contracts and the amount thereof shall be due and payable on the tenth day of the month ²succeeding the month in which labor was performed or materials were furnished on account of which the estimate is allowed.

Section 13. Limitations of actions.- No action shall be maintained against the city on account of any injuries received in any manner whatsoever, nor on account of any injuries to persons or property by means of any defect in the condition of any bridge, street, sidewalk, or thoroughfare, unless such action shall be commenced within one (1) year from the receiving of the personal injuries or the happening of the injury, nor unless notice shall first have been given in writing to the mayor of the city or the city clerk thereof within thirty (30) days of the receiving of such personal injury or of the occurrence of such injury to persons or property, stating the place where and the time when the same was received and that the person injured will claim damages of the city for such injury; but the notice shall not be required when the person injured shall, in consequence thereof be bereft of reason. Nor shall any such action be maintained for any defect in any street until the same shall have been opened and graded, nor for any insufficiency of the ground where sidewalks are usually constructed, when no sidewalk is built. All actions arising ex delicto, including the action provided for by section Two of Chapter seventy seven of the general statutes of eighteen hundred and seventy eight, and including those hereinbefore

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stated in this section, shall be commenced within one (1), year after the cause of action accrues and not thereafter, and all actions arising ex contractu shall be commenced within two (2) years after the cause of action accrues.

Section 14. Statute of limitations.- No right, title, estate or easement of the city in or to any property shall be prejudiced or lost by and adverse possession or occupancy, and no statute of limitation shall run or operate as against the city in favor of any person or persons occupying any of the public or platted streets, or public or platted grounds, parks, parkways or boulevards of the city, whether such streets or grounds or any such property be improved or not.

Section 15.- Affidavit of city printer.- The proprietor of the official paper shall immediately after the publication of any notice, ordinance or resolution or proceeding of the city council or any other matter which is required to be published by and of the provisions of this charter, or any ordinance passed in pursuance thereof, file with the city clerk of the city a copy of such publication, with his affidavit, or the affidavit of his foreman, of the time the same has been published and such affidavit shall be prima facie evidence of the publication of any such ordinance, notice, resolution or council proceeding, or any such other matter required to be published as herein provided; and no account or claim for any publication whatever shall be allowed and adjusted by the city ^{Council} ~~clerk~~ until such affidavit shall have been filed with the city clerk, and the city clerk shall have certified that fact to the city council.

Section 16. Who may administer oaths.- The mayor, acting mayor, the president chairman or head of any board authorized by this charter, shall, by virtue of their office, in all matters and proceedings before them relating to or appertaining to the city, be and are hereby authorized to administer oaths and receive testimony under oath or affirmation.

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Section 17. Authority to repair roads and bridges.- The city council by a two thirds (2-3) vote of all the members elect, shall have the power to build, repair and maintain roads and bridges beyond the city limits into other towns and counties whenever they deem it proper and fix the amount and manner in which the appropriations for such purposes shall be expended.

Section 18. No rights to be effected.- That no rights already accrued to the city or any penalty or forfeiture incurred in favor of the city under the provisions of Chapter 3, of the special laws of Minnesota for the year 1889, shall be effected by this Charter, nor shall this charter effect any action or other legal proceeding pending at the date of the approval and adoption of this charter and all proceedings for the making of local improvements and the making and collecting of assessments therefor which improvements have been finally ordered under the provisions of Chapter 3, of the special laws of Minnesota for the year 1889, before the date of the approval and adoption of this Charter, shall be proceeded in as though this charter had not been adopted.

Section 19. All the provisions of Chapter 3, of the special laws of Minnesota for the year 1889, and all acts amendatory thereof, except such parts thereof as have been incorporated in this charter shall be repealed when this charter is adopted and approved by the qualified electors of the city.

Section 20. The mayor, aldermen and all other elective and appointive officers of the city holding office at the time of the approval and adoption of this charter, shall continue to hold their said office until the first Monday of April, 1899:

PROVIDED, HOWEVER, that all new offices created by this charter shall be filled by appointment of the city council until the first Monday of April, 1899.

Respectfully submitted.

Robert Patterson - President	Charles R. Olson - Secretary
Frederick Rath	Wesley Mair
Thomas Gunnar	Thomas F. Gallins
Matthew P. Chieppi	Dennis P. MacLean
John McGrath	Charles A. Marden
John Marth	Frank MacKenzie
Sidney F. Jacobs	

Charter Commissioners, consisting of
Board of Fifteen Freeholders, City of Barnesville.

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