

SEC. 3. In case of any existing indebtedness against said town, and where such indebtedness is evidenced by any form of obligation, it shall be the duty of the county auditor of said county to apportion, for the purpose of taxation, the liability of such town and village, which shall be apportioned in proportion to the existing valuation of real estate in such town and village, as appears by the last assessment, and thereafter as such obligations mature it shall be the duty of the auditor to extend a tax for the purpose of meeting such obligation against the property of such town and village upon a basis of such apportionment.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved April 22, 1889.

CHAPTER 3.

[H. F. No. 1081.]

AN ACT TO INCORPORATE THE CITY OF BARNESVILLE, CLAY COUNTY, MINNESOTA.

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

CHAPTER I.

CITY WARDS AND 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.

SEC. 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 (35) west of the fifth (5th) principal meridian; also the east half ($e \frac{1}{2}$) of section twenty-five (25) and the northeast quarter ($ne \frac{1}{4}$) 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.

SEC. 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.

SEC. 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 ($\frac{2}{3}$) 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 so as to increase the number of said districts, and shall not be made within forty (40) days next preceding any general or special election.

SEC. 5. That the territory herein described as constituting said city of Barnesville shall from and after the passage of this act be forever separated for all purposes from the townships of Barnesville and Humboldt, and shall not be liable for any of the obligations or debts of either of said townships, nor share in the assets of property of either of said townships.

SEC. 6. All the territory described in this act, within which are now established or exist any municipal governments under city or village charters organized under any general or special law of this state, shall from and after the passage and approval of this act and the same takes effect, cease, and the said city of Barnesville shall thereupon succeed to, and become vested with, and owners of, all the property, real, personal and mixed, rights, franchises, contracts, privil-

eges and immunities which belong to or are owned by said villages at the time when they cease to exist, and said city of Barnesville shall become and be liable and responsible for all legal debts, obligations and liabilities existing against said villages for any cause of consideration whatever, in the same manner and to the same extent as if such debts, obligations, or liabilities had been originally contracted or incurred by said city of Barnesville.

SEC. 7. The following named residents and electors in the said city of Barnesville shall constitute the first common council of said city; who shall hold office until the first day of June, one thousand eight hundred and eighty-nine (1889) and until their successors are elected and qualified as hereinafter provided, to-wit: Mayor, P. E. Thompson; aldermen first ward, G. Newgard and E. Odegard; aldermen second ward, Frederick Barney and John West; aldermen third ward, Peter Harvie and John McGrath.

And the said common council shall meet within fifteen (15) days after the passage of this act and organize and proceed to elect and appoint from among the qualified electors of said city the following officers of said city who shall hold office until the first (1st) day of June, one thousand eight hundred and eighty-nine (1889), and until their successors are elected and qualified, namely: City treasurer, city clerk, two (2) city justices, one (1) constable, one (1) street commissioner, one (1) city attorney and one (1) fire marshal.

SEC. 8. The first election to be held under this charter, shall be on June first (1st), one thousand eight hundred and eighty-nine (1889). At such election there shall be elected the following officers, to-wit: One (1) mayor, one (1) city treasurer, one (1) constable, two (2) city justices; all of whom shall hold office until the second (2d) Tuesday in March, one thousand eight hundred and ninety (1890); or until their successors are elected and qualified. *Provided, however,* that the two (2) city justices elected shall hold office for two (2) years thereafter, and until their successors are elected and qualified. At such election there shall be elected two (2) aldermen for each ward; one (1) of whom from each ward, shall hold office until the second (2d) Tuesday in March, one thousand eight hundred and ninety-one (1891), and the other until the second (2d) Tuesday in March, one thousand eight hundred and ninety (1890), and until their successors are elected and qualified.

CHAPTER II.

ELECTIONS.

SEC. 1. That there shall be an annual 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 and ninety (1890), and every year thereafter, in each aldermanic district in said city, and in such election precincts in said district as may be established by resolution or ordinance of the common council, and at such place or places therein as the common council may by resolution or otherwise designate, and ten (10) days previous notice of such

election shall be given by the common council of the time and place of holding such election and of the officers to be elected. That no change of the boundaries of any election precinct, or the division of any precinct hereby established, shall be at any time made within forty days prior to the time of any election appointed to be held therein.

SEC. 2. That the elective officers of said city shall be a mayor, city treasurer, two (2) city justices, and one (1) constable; all of which officers shall be residents within 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 act, shall be appointed by the common council; and at the annual election of city officers, which election shall be held on the second Tuesday of March, one thousand eight hundred and ninety (1890), there shall be elected one (1) alderman in each of said aldermanic districts. Each of said aldermen to be hereafter elected, shall be a qualified elector and actual resident of the ward and district for which he may be elected, and shall continue to reside in such district during the time he shall serve as such alderman; and every year thereafter there shall be elected one (1) alderman for each district, to succeed the aldermen whose terms of office are then about to expire, who shall hold their offices for two (2) years, and until their successors are elected and qualified. *Provided, however,* that said mayor and aldermen shall serve and act without compensation.

SEC. 3. Every person appointed to any office by the common council, or elected to any office by the people may be removed from such office by a vote of two-thirds ($\frac{2}{3}$) of all the aldermen authorized to be elected. But no officer elected by the people shall be removed, except for cause; nor unless first furnished with and notified of the charges, nor until such person shall have had a reasonable opportunity to be heard in his defense. The common council shall have power to fix a time and place for the trial of such officer, of which not less than ten (10) days notice shall be given, and to compel the attendance of witnesses and the production of papers and to hear and determine the case; and if such officer shall neglect to appear and answer to such charge the common council may declare the office vacant.

SEC. 4. Whenever a vacancy shall occur in the office of any elective office of said city, such vacancy may be filled by appointment by the common council of said city until the next annual election; and the successor of such person so appointed to fill any vacancy aforesaid, shall be elected at the next annual election for the unexpired term.

SEC. 5. A plurality of votes shall constitute an election. When two (2) or more persons receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council, at such time and in such manner as they may direct.

SEC. 6. All persons entitled to vote for state and county officers, and who shall have resided for ten (10) 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 law, 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; excepting that the returns for all city elections shall be made to the city clerk.

SEC. 7. 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 annual elections, and within such time as may be prescribed by resolution.

SEC. 8. Any officer removing from the city or ward for which he was elected, or any officer who shall neglect or refuse for fifteen (15) days after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill the vacancy as herein prescribed.

SEC. 9. That the term of any officer, unless herein otherwise provided for, shall commence as soon as he shall have qualified; shall continue for one (1) year and until his successor is elected and qualified.

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

CHAPTER III.

CITY OFFICERS, THEIR POWERS AND DUTIES.

SECTION 1. Every person elected or appointed to any office under this act shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same duly certified by the officer taking the same, with the clerk of the city; and the treasurer, clerk, and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, and not more than fifteen (15) days after their election or appointment, execute to the city of Barnesville a bond with at least two (2) sureties, each of whom shall take an oath that he is worth the amount named in the affidavit, over and above all his debts, exemptions and liabilities, which shall in the aggregate be equal to the penalty of the bonds, and said bonds shall contain such penal sum and such conditions as the common council may deem proper; and they may from time to time require new or additional bonds, and remove from office any officer neglecting or refusing to give the same.

SEC. 2. The mayor shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of this city discharge their respective duties. He shall from time to time give the common council such information and recommend such measures as he may deem advantageous to the city. All ordinances shall, before they take effect, be presented to the mayor and if he approves thereof he shall sign the same; and such as he shall not sign he shall return to the common

council with his objections thereto, by depositing the same with the city clerk, to be presented to the common council at their next meeting thereafter. Upon the return of any ordinance or resolution by the mayor, the vote by which the same was cast shall be reconsidered, and after such reconsideration, if the common council shall pass the same by a vote of two-thirds 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 clerk of record.

If any ordinance or resolution shall not be returned by the mayor within ten (10) days (Sundays excepted) after it shall have been presented to him, the same shall have the same effect as if approved by him.

SEC. 3. 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 the 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 both 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 common 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.

SEC. 4. 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 common council, at whose meetings it shall be his duty to attend. He shall draw and countersign all orders on the treasury, in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof, in books provided for that purpose, and make an accurate and full record of all the by-laws, rules and ordinances, made or passed by the common council. The city clerk shall have power to take acknowledgments, administer oaths and affirmations, and copies of all papers filed in his office and transcripts of any records of his office certified to by him under the corporate seal, shall be evidence in all courts in like manner as if the original were produced.

He shall perform all other services by law required of the clerk of cities or townships within said city, but 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 said city.

He shall report annually on or about the first (1st) day of April to the common council, an estimate of the expenses of the city for the current year, and the revenue necessary to be raised therefor, and the fiscal year of the city shall commence on the first (1st) day of April.

He shall countersign all contracts made on behalf of the city in connection with the mayor. The clerk, upon order of the council, may from time to time borrow, for and in behalf of said city, such

sums of money as may be necessary for temporary purposes, and to anticipate the current revenue only ; such loans to be subject to the approval of the common council.

He shall examine the reports, books, papers, vouchers and accounts of the treasurer, and shall perform such other duties from time to time as the council may direct.

He shall not be directly or indirectly interested in any contract or job to which the city is a party, or in any loan to which the city is a party.

He 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.

Aside from the salary of the city clerk allowed by the council, said clerk shall be allowed the sum of fifty (50) cents for each license issued by him, under the provisions of this charter or the ordinances of this city (except dog licenses), to be paid by the person to whom the license is granted.

It shall be the duty of the city clerk to furnish the common council with a correct statement of all moneys received by him as fees for duties performed by him as such clerk, and from what sources such fees were received. The salary of the city clerk shall be fixed by the common council but in no event shall it exceed the sum of fifty dollars (\$50.) per annum, exclusive of his fees herein mentioned.

SEC. 5. The city treasurer shall receive all moneys belonging to the city, including all taxes, license moneys, fines and other revenues of the city, and keep an account and detailed account thereof in such a manner as to show the exact financial condition of the city.

He shall exhibit to the common council, at least fifteen (15) days before the annual election, and as often as the common council or the finance committee thereof may require, a full and detailed account of receipts and expenditures since the date of his last annual report, or for any required period, and also the state of the city treasury; which annual account shall be filed with the clerk and published in the official paper of the city. He shall give such bonds as the common council shall require, and the same shall be conditioned for the faithful performance of all duties imposed by this act. No funds of the city shall be loaned by the treasurer to any officer or person or otherwise disposed of except according to law. All moneys received by the city treasurer of the city by virtue of his office as such treasurer, shall be deposited by said treasurer in a bank or banks to be designated by the common council, in the name of the city and shall be drawn by him therefrom only, only on checks signed by him as city treasurer. The said bank account shall be subject to examination at any time by the common council or any committee thereof.

Any violations of these provisions shall be a misdemeanor punishable by imprisonment for a period not exceeding one (1) year, or by a fine not exceeding three hundred (\$300) dollars or both, in the discretion of the court.

Said treasurer shall also perform such other duties as are herein-after provided.

The city treasurer shall receive no fixed compensation, but shall be entitled to, and shall receive in full of all services two (2) per cent. upon the gross amounts received by him.

SEC. 6. The city attorney for said city shall perform all professional services incident to the office, and when required furnish written opinions upon any subject submitted to him by the common council or its committees. He shall also advise with and counsel, when requested, all city officers in respect to their duty as such officers, and attend the regular meetings of the city council, and as such committees as shall require his assistance.

SEC. 7. The city physician shall be a physician in regular practice and of good standing in his profession and a graduate of some college of medicine. He shall make regular inspection of the city as to matters affecting the health of its citizens. He shall make reports to the State Board of Health of such facts as may be required by said state board. He shall be ex-officio president, and executive officer of any board of health established for the city; such physician may be removed at the pleasure of the council.

SEC. 8. If any person having been an officer in said city shall not within ten (10) days after notification and request deliver to his successor in office, all property, books, papers and effects of every description in his possession, belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city one hundred and fifty dollars (\$150) besides all damages caused by his neglect or refusal so to deliver, and such successor may recover the possession of such books, papers and effects, in the manner prescribed by the laws of this state.

SEC. 9. The common council shall have power at any time to require other and further duties to be performed by any officer whose duties are herein prescribed, not inconsistent with this act, and to appoint such other officer as may be necessary to carry into effect the provisions of this act, and to prescribe their duties unless herein otherwise provided for; but no officer elected or appointed by the council or appointed by the mayor shall be appointed for a longer term than one (1) year, or until his successor is elected or appointed and duly qualified, except as provided in this act. The common council shall also have the power unless otherwise herein provided for to fix the compensation of all officers, elected or appointed under this act; such compensation shall be fixed by resolution and shall not be increased or diminished during the year.

SEC. 10. The members of the common council shall be exempt from serving on any jury during their term of office.

SEC. 11. The justices of the peace of the city, styled the city justices, shall possess all the authority, power and rights of a justice of the peace for the county of Clay, under the laws of this 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 of all writs, prosecutions and proceed-

ings in which the recovery of any fine or forfeiture or penalty under any by-law, ordinance or regulation of said city or its charter, and in all cases of offences 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). And the said city justices shall have jurisdiction in all cases, civil and criminal, arising under this city charter and of the ordinances passed pursuant thereto, to proceed to hear and try in a summary manner, without a jury all persons charged with the violation of any such provision of said charter or of the ordinances passed pursuant thereto. In all prosecutions for assault, batteries and affrays, and for all other offences 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 the judgments rendered by justices of the peace. In all cases of convictions for assaults, batteries and affrays within said city, and in all cases of 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). Said justices shall also have power in all criminal actions within their jurisdictions 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 workhouse established by the city for that purpose; or in case of male offenders to sentence them to hard labor upon any public work or improvement in said city as herein provided; in cases of offences against the city ordinance the said justices shall have the same power in cases of contempt as justices of the peace, under the law of this state now had. 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. The city justices and constable shall receive no compensation from said 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 offences, the fines paid to and collected by said city justices, shall monthly be turned over to and be receipted for by said city treasurer.

SEC. 12. The city assessor shall perform all duties in relation to the assessing of property for the purpose of levying all city, county and state taxes. He shall be allowed from the first (1st) day of May to the first (1st) day of July, of each year to make the assessments of the city. Upon the completion of the assessment roll he shall return the same to the common council, who may alter, revise and equalize the same, as they may deem it proper and just. Said city

assessor shall be appointed at the first regular meeting of the common council in the month of April, and shall hold his office for one (1) year and until his successor is elected and qualified.

SEC. 13. The common council shall constitute a board of equalization, who shall be sworn according to law as such board, and meet at the city council room in said city, on the second (2d) Monday in July in each year, and revise, amend and equalize the assessments on the roll of said assessor. It shall be the duty of the assessor to be present at all meetings of the said board of equalization, to present before the board all facts relating to the assessment. Such board of equalization is vested with all the powers which are or hereafter may be vested in county boards of equalization under the general law of the state, so far as applicable, but shall not be restricted by any limitation in respect to reducing the aggregate sums of real or personal property as returned by the assessor. Such equalization board shall have the power of adjournment as it shall deem proper until it shall have completed the equalization of the assessment, and when it shall have completed said equalization, and on or before the fifteenth (15th) day of September of each year, the city clerk shall certify and return the same to the county auditor as other assessment rolls. Every person aggrieved by any assessment shall have the right to appear before the board of equalization at its sittings and present his grievance for consideration.

SEC. 14. It shall be the duty of the street commissioner to superintend all work and improvement on the streets, bridges and public grounds of said city, and carry into effect all orders and ordinances of the common council, in relation to work or improvement on the streets, roads, bridges and public grounds of said city. He shall be required to execute a bond with sureties satisfactory to the common council, conditioned for the faithful performance of his duties, and that he will faithfully account for all moneys received by him in his official capacity or belonging to the city.

SEC. 15. All police officers and watchmen of the city shall possess the powers of constable, at common law, or by the laws of this state, and in addition thereto shall have the power and it shall be their duty to execute and serve all warrants, process and commitments and writs, whatsoever issued by the city justices of the city, and they shall have the power to pursue and arrest any person fleeing from justice in any part of the state; they shall also have power and it shall be their duty to serve all summonses or subpoenas in behalf of the city within their jurisdiction and without extra compensation.

SEC. 16. The mayor may in case of riot, large public gatherings or other disturbances, appoint such number of special or temporary police officers as he may deem necessary, but such special or temporary appointments shall not continue more than one (1) week without the consent of the common council.

CHAPTER IV.

THE COMMON COUNCIL, ITS GENERAL POWERS AND DUTIES.

SECTION 1. The aldermen and mayor shall constitute the common council and the style of all ordinances shall be "The common council of the city of Barnesville do ordain," etc.

The common council shall meet at such time and place as they by resolution may direct. A majority of the aldermen shall constitute a quorum. It shall require a majority of the common council elected to enter into or approve contracts or order payments, or disbursements of the public moneys. All contracts involving over fifty dollars (\$50) must be in writing before they can be entertained or acted upon by the common council.

SEC. 2. The common council shall hold stated meetings and the mayor may call special meetings by notice to each of the members to be delivered personally or left at their usual place of abode; at least twenty-four (24) hours previous to the holding of such meetings.

The common council shall be the judge of the election and qualification of its own members, and in such case shall have power to send for persons and papers, and shall also determine the rules of its own proceedings, and have power to compel the attendance of absent members.

SEC. 3. The common council shall have the management and control of the finances (subject to the provisions of this act, and all the property of the city, and shall likewise in addition to the power herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city for the suppression of vice and intemperance and for the prevention of crime as they shall deem expedient: they shall have the power to establish and maintain a city prison and watch houses, for the imprisonment, custody and safe keeping of all persons arrested, for or charged with any offence whatever, in any way cognizable before the city justices. The common council shall have full power and authority to declare and impose penalties and punishments and to enforce the same against any person or persons who may violate any of the provisions of any ordinance, rule or by-law passed or ordained by them, and all such ordinances, rules and by-laws are hereby declared to be, and have the force of law. *Provided*, that they be not repugnant to the constitution and laws of the United States, or of this state: And for these purposes shall have authority by ordinances, resolutions or by-laws,

First. To license and regulate the exhibition of common showmen and shows, and exhibitions of all kinds, and the exhibition of caravans, circuses, concert and theatrical performances, and also to license and regulate all auctioneers, billard tables, pigeon-hole tables, nine and ten pin alleys, bowling saloons, butcher shops, and butchers' stalls, and vendors of butcher's meat, pawnbrokers, insurance offices and insurance agencies, taverns, lager beer saloons, victualing houses, and all persons vending, dealing in or disposing of spirituous, vinous, malt or fermented liquors; *provided*, that this act shall not be con-

strued so as to prevent any person selling game, or who may dispose of any animals raised or fattened by him, or who may sell fresh meats by the carcass, or quantities not less than by the quarter, be deemed or held to be a vendor of fresh or butcher's meats, under the provisions of this act; and also to license and regulate the selling or contracting the sale of any goods, wares or merchandise by samples, when such goods, wares or merchandise are thereafter to be delivered to the purchaser, and *provided further*, that not less than three (3) dollars nor more than two hundred dollars (\$200,) shall be required to be paid for any license under this act, except liquor licenses, which are otherwise provided for by general law; and the fees for issuing the same shall not exceed fifty (50) cents for each. And said common council may at any time revoke any license granted under this act, for malcontent in the course of trade and may regulate and restrain the sale of fresh or butcher's meat within the corporate limits of said city, and punish or restrain the forestalling of game, poultry, eggs or fruit within said city; and *provided*, that no general law of this state shall be construed so as to prevent the licensing or regulation of insurance offices and insurance agencies by said common council.

Second. To restrain and prohibit all description of gaming and fraudulent devices and practices, and all playing of cards, dice or other games of chance for the purpose of gaming in said city; and to restrain any person from giving or dealing in spirituous, fermented or vinous liquors, unless duly licensed by the common council.

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

Fourth. To compel the owner or occupant of any grocery, cellar, stable, barn, privy, sewer or other unwholesome, nauseous place, to cleanse, remove or abate the same from time to time as often as may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

Fifth. To direct the location and management of slaughter houses and markets, breweries, distilleries and pawnbrokers, and establish rate for and license vendors of gunpowder, and regulate the storage, keeping and conveying of gunpowder or other combustible material.

Sixth. To prevent the encumbering of streets, sidewalks, lanes, alleys or public grounds with carriages, carts, wagons, sleighs, boxes, lumber, fire wood, posts, awnings or any other materials or substances whatever.

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

Eighth. To restrain the running at large of cattle, swine, sheep,

poultry and geese and to authorize the distraining of cattle and the other animals herein mentioned, and their sale; and to impose penalties upon the owners of such animals for violation of the ordinances. *Provided*, That when a sale of such animal shall be made, the proceeds thereof, after conducting the expenses of distraining, keeping, advertising and selling such animals, shall be deposited in the office of the treasurer of said city, for the use and benefit of the owner thereof, if called for by such owner within one (1) year from the day of such sale.

Ninth. To prevent the running at large of dogs, and may impose a tax on the same; and to authorize the destruction of the same in a summary manner when at large, contrary to the ordinances.

Tenth. To prevent any person from bringing, depositing or having within the city, any putrid carcass or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance, or putrid or unsound beef, pork, fish, hides or skins of any kind; and on default to authorize the removal thereof by some competent officer at the expense of such person or persons.

Eleventh. To make and establish public pounds, pumps, wells, cisterns, hydrants, reservoirs, and to provide for and conduct water into and through its streets, avenues, alleys and public grounds, and to provide for and control the erection of water works for the supply of water to its inhabitants; to regulate and at a reasonable rate to license hacks, carts, omnibuses, trucks, wagons and other vehicles, engaged in hauling, for carrying, for hire, and the charges of the drivers of such vehicles to regulate at a reasonable rate, to license second-hand stores and junk shops, and to erect lamps and provide for lighting the city, and to control the erection of gas-works, or other works for lighting the city, streets, public grounds and public buildings, and to create, alter and extend lamp districts.

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

Thirteenth. To prevent all persons riding or driving horse, ox, mule or cattle, or other animal on the sidewalks or other public grounds and property in said city; or in any way doing any damage to such sidewalks, grounds or property.

Fourteenth. To prevent the shooting of firearms or crackers and to prevent the exhibition of any firework in any situation which may be considered by the council dangerous to the city, or any property therein or annoying to any citizen thereof.

Fifteenth. To prevent open and notorious drunkenness and obscenity in the streets, or public places of said city, and provide for the arrest and punishment of all persons who shall be guilty of the same.

Sixteenth. To restrain and regulate porters, and also runners, agents and solicitors for stages, cars, public houses and other establishments.

Seventeenth. To establish public markets and other public buildings and to make rules and regulations for the government of the

same; to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations.

Eighteenth. To provide for the receipt, storage, transportation, safe keeping and dealing and traffic in gunpowder, guncotton, petroleum, kerosene or other dangerous, explosive or inflammable oil or substances within said city, or within one (1) mile of the corporate limits thereof, and to provide for the summary condemnation or destruction of any of such articles as may be kept, stored, dealt in, transported through or received in said city, contrary to such ordinances as said city may enact for the safety of life and property therein.

Nineteenth. To regulate the place and manner of weighing hay and selling the same, and the measuring and selling of fire wood, coal, and to appoint suitable persons to conduct and superintend the same.

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

Twenty-first. To regulate time, manner and place of holding public auctions or vendors.

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

Twenty-third. To regulate the inspection of flour, pork, beef, salt, fish, whisky, and other liquors and provisions.

Twenty-fourth. To direct and regulate the planting and preserving of ornamental trees in the streets and public grounds.

Twenty-fifth. To remove and abate any nuisance injurious to the public health or safety, and to remove or require to be removed, any building which, by reason of delapidation, defects in structure or other cause, may have or shall become immediately dangerous to life or property, and to provide for the punishment of all persons who shall cause or maintain such nuisance.

Twenty-sixth. To remove and abate any nuisance, obstruction or encroachment upon the streets, alleys, public grounds and highways of the city. When any building shall have to be moved as specified in section three (3), subdivision twenty-five (25) a statement of such expense specifying the lots or parcels of land upon which it was incurred, shall be filed by the city clerk in the office of the register of deeds, of the county of Clay, and shall thereupon become a lien in favor of said city, upon such lot or parcel of land. The amount of such expense may be recovered by said city against the owner or owners of said lot or parcel of land, and the lien be enforced in a civil action in any court of competent jurisdiction; *provided*, that such statement shall be filed within three (3) months after such expense has been incurred by said city; and if suit shall not be brought

as aforesaid, to enforce such lien within one (1) year thereafter the same shall abate; and *provided further*, that said lien shall not obtain before the filing thereof against a bona fide purchaser, without notice of such expenditure.

Twenty-seventh. To do all acts and make all regulations which may be necessary or expedient for the preservation of health and the suppression of disease, and make regulations and to prevent the introduction of contagious diseases into the city, and to make quarantine laws and enforce the same within the city limits.

Twenty-eighth. To restrain and punish vagrants, mendicants, street beggars, and prostitutes. *Provided*, that the common council may by ordinance, make such disposition of the fines collected and received by the city under any ordinance ordained by the common council to enforce this subdivision, as may, in its opinion, be for the best interests of the public.

Twenty-ninth. To establish a fire department, to appoint the officers and members thereof, and prescribe and regulate their duties; to provide protection from fire by the purchase of fire engines and all necessary apparatus for the extinguishment of fires, and by the erection or construction of pumps, water mains, reservoirs or other works; to erect engine houses, to compel the inhabitants of the city to aid in the extinguishing of fire, and to pull down and raze such buildings in the vicinity of fires as shall be directed by them, or any two (2) of them who may be at the fire, for the purpose of preventing its communication to other buildings; to establish fire limits or the limits within which wooden buildings or other combustible material shall not be erected or permitted; to require the owners or occupants of buildings to provide and keep suitable ladders and fire buckets, which shall be appurtenances to the realty, and exempt from seizure and sale; and after reasonable notice to such owner or occupant and refusal or neglect by him, to procure and deliver the same to him, and in default of payment therefor to levy the costs thereof as a special tax upon such real estate, to be assessed and collected as other taxes in such city, and generally to establish such necessary measures for the prevention or extinguishment of fires as may be necessary and proper.

Thirtieth. The city council may designate such officer of the fire department as it may select to act as fire marshal of the city, to see that the ordinances of the city relating to 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.

Thirty-first. Fines, penalties and punishments imposed by the common council for the breach of any ordinance, by-law or regula-

tion of said city, may extend to a fine not exceeding one hundred dollars (\$100) or imprisonment in the city jail or county jail of Clay county, or by both such fine and imprisonment, such imprisonment not to exceed thirty (30) days, and to be fed of bread and water, at the discretion of the city justice committing, and offenders against the same may be required to give security for their good behavior, and to keep the peace not exceeding six (6) months, and in a sum not exceeding five hundred dollars (\$500).

Thirty-second. The common council of said city may provide by ordinance that any one convicted of any offence before either of the city justices, subjecting said offender to imprisonment or fine under the charter and ordinance of the said city, may be kept at hard labor in any of the public streets of said city, in the discretion of the committing justice.

Thirty-third. The common council shall have power to control and regulate the construction of buildings, chimneys and stacks, and to prevent and prohibit the erection and maintenance of any insecure or unsafe building, stack, walls, or chimneys in said city and to declare them nuisances, and to provide for their summary abatement, and to provide for the regulation or abatement of any work or building, which is detrimental to the safety or security of said city.

Thirty-fourth. To regulate or prohibit the carrying or wearing concealed by any person, any dangerous or deadly weapon, and to provide for the confiscation thereof.

Thirty-fifth. To regulate the penning, herding and treatment of all animals within the city.

Thirty-sixth. To provide by ordinance for a standard of weight and measures, and fix upon whom such duties shall devolve, and to require that weight and measures shall be sealed when so examined, and to provide for the punishment for the use of false weights and measures.

Thirty-seventh. To provide for the levy and collection of poll tax within the city.

Thirty-eighth. To provide for making and filing in the office of the register of deeds of said Clay county a revised plat of the streets, alleys, lots, and blocks of said city.

SEC. 4. All ordinances, regulations, resolutions and by-laws shall be passed by an affirmative vote of a majority of the members of the common council present, by ayes and noes, and published in the official paper, or published by posting as hereinafter provided, before the same shall be enforced, and shall be admitted as evidence in any court of the state without further proof, and they shall be recorded by the city clerk in books to be provided for that purpose. In the publication of resolutions they may be included in the publication of the proceedings of the council with the dates of their approval, without appending in such publication the signatures to such resolutions.

SEC. 5. The powers conferred upon the common council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law.

SEC. 6. The common council shall have the care, supervision and

control of all public highways, bridges, streets, alleys, public squares and grounds, and parks and sewers, and all other public improvements and public property within the limits of said city, and shall cause all streets which may have been opened and graded under the authority of said city or with assent, to be kept open and in repair and free from nuisance.

SEC. 7. The common council of said city shall have the sole and exclusive power to vacate or discontinue public grounds, streets, alleys and highways within said city. No such vacation or discontinuance shall be granted or ordered by the common council except upon the petition of a majority of the owners of property on the line of such public grounds, streets, alleys or highways, resident within said city; such petition shall set forth the facts and reasons for such vacation, accompanied by a plat of such public grounds, streets, alleys or highways proposed to be vacated, and shall be verified by the oath of at least two (2) of the petitioners. The common council shall, thereupon, if they deem it expedient that the matter shall be proceeded with, order the petition to be filed of record with the city clerk, who shall give notice by publication in the official paper of the city for four (4) weeks at least once in each 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 common council or a committee appointed by them on a certain day and place therein specified, not less than ten (10) days from the expiration of such publication. The common council or such committee as may be appointed by them for the purpose, at the time and place appointed, shall investigate and consider the said matter, and shall hear the testimony and evidence on the part of the parties interested. The common council thereupon after hearing the same or upon the report of such committee in favor of granting such petition, may by a resolution passed by a three-fourths ($\frac{3}{4}$) vote of all the members elect declare such public grounds, streets, alleys or highways vacated, which said resolution, after the same shall go into effect shall be published as in the case of ordinances, and thereupon a transcript of such resolution, duly certified by the city clerk, shall be filed for record, and duly recorded in the office of the register of deeds for the county of Clay.

SEC. 8. Any person feeling aggrieved by any such vacation or discontinuance, may within thirty (30) days after the publication thereof by notice in writing served on the mayor of said city, a copy whereof with proof of service, shall be filed in the office of the clerk of the district court for the county of Clay, appeal to said court from such vacation or discontinuance, where such appeal shall be tried by the court and jury as in ordinary cases. It shall be the duty of the city clerk, as soon as any such appeal is taken, to transmit to the proper court a certified copy of the records of all proceedings in the case at the expense of the appellant. Such appeal shall be brought and entered for trial, and governed by the same rules in all other respects as appeals from justices of the peace in civil suits, except that no pleadings shall be required.

SEC. 9. The common council shall have power and authority by a vote of three-fourths ($\frac{3}{4}$) of all the members elect of said council, to grant the right of way upon, over and through any of the public

streets, highways, alleys, public grounds of said city, to any steam railway or horse railway company or corporation upon such limitations and conditions as they may prescribe by ordinance.

SEC. 10. The common council shall have the power to regulate the laying of all water pipes and mains, and fixtures to be erected or laid or placed in any street, lane, alley or public way in said city, by any company, corporation or person now or hereafter created, and it shall be the duty of such corporation or persons so owning and controlling said water and pipes and main on application thereof to furnish water to the said city (in addition to the rights to the same for the extinguishment of fire), and for any other public or police purposes, at all such reasonable times and places as the common council may direct or prescribe, and also at such reasonable terms and rates as the parties may agree upon or as may be determined by two citizens of said city, one to be chosen by the city, and one by the water company or person controlling the same, and if they fail to agree, they shall select a third person, and then their decision shall be the price to be paid by said city. In no event nor under any circumstances shall said water be withheld from said city for the fire department; but if said city shall fail to pay the price fixed the said water company or person controlling the water or pipes, or mains or fixtures shall have all the remedies at law for the collection thereof; and if said water company or any company or person controlling the same shall violate any of the provisions of this section, it shall be deemed a misdemeanor; and any person acting under the order, permission or authority of said water company, who shall violate any of the provisions of this section, shall be deemed guilty of a misdemeanor and be subject to any indictment and be punished by a fine of not more than one thousand dollars (\$1,000), to which may be added imprisonment in the county jail, not longer than twelve (12) months. If said city shall fail to pay said water company for the period of sixty (60) days after due, it shall pay thereafter two (2) per cent. per month until paid.

SEC. 11. The common council of the city of Barnesville by a three-fourths ($\frac{3}{4}$) vote of all the members elect, shall have the power to grant to individual firms or corporations, the use of the streets and public grounds of said city for the purpose of laying pipes for conducting steam for heating and motive power upon such conditions as the common council may determine by resolution, *provided, however,* that said pipes shall always be laid under the direction of said council and shall be at all times under the control of said council

SEC. 12. The common council of the city shall have power to purchase real estate for use of said corporation, or to aid in the purchase of real estate for such public purposes as the common council may deem proper by a three-fourths vote of all the members elect, and by like vote to sell and convey such real estate as the city may own and which is not needed for municipal purposes. *And provided,* that the said common council shall never contract or increase any indebtedness for the purchase of real estate without special authority first obtained from the legislature.

SEC. 13. The common council of the city of Barnesville, in addition to its other powers, is hereby authorized to ordain such other

and further ordinances not inconsistent with the laws of the state, which shall be deemed expedient for the good government of the city, the protection of its property, the preservation of peace, and good order, the suppression of vice, the benefit of trade and commerce, the preservation of health, the prevention and extinguishment of fires, and to prescribe limits in which neither wood, lumber, lath, shingles or hay can be piled or stored or lumber yards established or maintained within said city.

CHAPTER V.

TREASURY DEPARTMENT.

SECTION 1. All property, real and personal within the city, except such as may be exempt by the laws of the state, shall be subject to taxation for the support of the city government, and payment of its debts and liabilities, and the same shall be assessed in the manner provided by law.

The common council may levy an annual tax upon all property in said city taxable under the laws of this state, to and for the specific purposes following, that is to say;

First. To provide a "general fund," to pay the general current and incidental expenses of the city, including salaries of officers, street force, fire department, lighting the city, water department, printing and stationery, and to provide for the preservation of the health of the city; but the amount of money to be raised for the above purposes shall only be so much as may be necessary in addition to the amounts received from licenses, fines, markets and other incidental sources, which shall also go into said general fund, for an economical administration of the affairs of the city, and shall not exceed ten (10) mills on the dollar of the assessed value of the taxable property of the city, and the money so raised shall not be expended for any other purpose.

Second. To provide for the interest on all bonds that at any time may be outstanding and for a "sinking fund" sufficient to meet and pay such bonds at maturity, and any indebtedness of the city.

Third. To provide for a "special fund" to pay any special indebtedness of the city incurred under the laws and not provided for herein.

SEC. 2. The said levy shall be made by the said common council on or before the 15th day of September, in each year, and the same shall be entered upon the tax duplicates for the county of Clay and collected annually in like manner as state and county taxes are collected.

SEC. 3. The county treasurer of the county of Clay shall pay over to the city treasurer of said city any and all taxes and money collected by him, or received by him for said city quarterly, and at the time now provided by law for settling with township treasurers. Immediately after the first levy of taxes under section one (1) of this chapter the city treasurer shall open and keep in his books separate and dis-

inct accounts for each of the several items of taxation therein provided for. And thereafter whenever the said county treasurer shall pay over to the said city treasurer any taxes belonging to said city and collected under the levy provided for by said section one (1) the said city treasurer shall credit each of the said respective funds with its proportionate amount of such payment according to the tax levy for such separate fund, and the same shall remain so credited and shall not be paid out by said treasurer except in payment for such specific purpose for which such fund shall have been levied and collected, and no ordinance, resolution or order of said common council or of any committee thereof or officer of said committee or officer of said city shall warrant or authorize the said treasurer to divert any said separate funds from the legitimate purpose for which the same were collected and credited aforesaid, or to borrow or transfer any balance or proportion of one of said funds to the credit of the other, except as herein provided.

SEC. 4. It shall be the duty of the common council in auditing and adjusting claims and accounts as herein provided to designate and specify upon each claim, demand and account so audited and adjusted, the particular fund out of which the same shall be paid, and the city clerk shall not prepare or sign any order on the treasurer unless the foregoing requirements have been complied with, and the said city clerk shall state in his order on the treasurer the fund from which the same shall be taken.

The common council may at any time by a three-fourths ($\frac{3}{4}$) vote of all the council, appropriate from the general or special fund or both of them any sum, not otherwise appropriated, which in their judgment may seem just and proper, for the support of the free public schools of the independent school district of New Barnesville in said county, and upon the passage of any such ordinance or resolution the clerk shall draw an order upon the treasury for the said amount in favor of the treasurer of the said school district.

SEC. 5. Any wilful neglect or refusal on the part of the said city treasurer, the city clerk or county treasurer of Clay county, to perform the duties in this chapter prescribed, or any vote or act of any aldermen or of said officers or other officer of said city, made or done with wilful intent to evade the provisions of this chapter, or to divert the funds raised by taxation or pledged by ordinance to a specific purpose, is declared to be a misdemeanor, and upon conviction thereof such officer shall be punished by a fine not exceeding five hundred dollars (\$500), and imprisonment in the county jail of Clay county not exceeding three (3) months.

SEC. 6. No moneys shall be appropriated for any purpose whatever except such as are expressly authorized by this act, except by a two-thirds ($\frac{2}{3}$) vote of the common council elect, and no vote of the common council in relation thereto shall be reconsidered or rescinded at a special meeting, unless at such special meeting there shall be present as large a number of aldermen as were present when such vote was taken.

SEC. 7. All moneys credited to the general fund of said city shall be under the control of the common council, and shall be paid out as heretofore upon the order of the mayor and clerk, duly authorized by

a vote of the common council, and all orders drawn upon the treasury shall specify the specific purpose for which the same were drawn and shall be payable generally out of any funds in the general fund belonging to the city.

SEC. 8. The tax to be levied under section one (1) for the general fund shall embrace the following specific objects, which shall be included and itemized in the annual report of the city treasurer as required by this act, to-wit:

Salaries of city officers, police department, expenses of city buildings, fire department, board of health, water department, street lamp department, contingent fund, and for such other specific purpose or purposes as prescribed by law enacted and in force at the time of said levy, and the taxes levied and collected for such specific object or objects, shall be applied only to defray expenditures, together with the arrearages due and unpaid for such specific object or objects, which arrearages or indebtedness shall be provided for in the next tax levy.

SEC. 9. The common council shall examine, audit and adjust the accounts of the city clerk, treasurer, street commissioner and all other officers and agents of the city, at such times as they may deem proper, and also at the end of each year and before the term for which the officers of said city were elected or appointed shall expire, and the common council shall require each and every such officer and agent to exhibit his books, accounts and vouchers for such examination and settlement, and if any such officer or agent shall refuse to comply with the orders of said council in the discharge of his said duties in pursuance of this section, or shall neglect or refuse to render his accounts or present his books, or vouchers, the said council or a committee thereof, it shall be the duty of said council to declare the office of such person or persons vacant, and the city council shall order such suits and proceedings at law against any officer or agent of said city who may be found delinquent or defaulting in his accounts or the discharge of his official duties, and shall make a full record of all such settlements and adjustments.

SEC. 10. In all cases where the common council may hereafter pledge or set apart any specific source of revenue of said city, for any particular purpose by ordinance, the said city treasurer shall open and keep in his books separate and distinct accounts of said revenue so pledged or set apart, and thereafter so long as said ordinance remains in force he shall credit all such revenue to such account, and the same shall only be paid out upon orders against said fund, and for particular purposes for which the same is so pledged, and no resolution of the common council or order or direction of any committee thereof, or officer of said city shall warrant or authorize the said treasurer to divert any of said separate funds from the legitimate purposes for which the same was collected, or to borrow or to transfer any balance or proportion of one of said funds to the credit of the other as herein provided. *Provided*, that a separate fund created by ordinance may be diverted to the general fund, or to any other special fund by an ordinance duly enacted for that purpose.

CHAPTER VI.

LOCAL IMPROVEMENTS.

SECTION 1. The common council may cause any street, or any part of any street, not less than sixteen (16) rods in length to be graded, paved, macadamized or otherwise improved, or any sidewalk or gutter to be built upon a petition therefor in writing, signed by at least a majority of all the owners of real estate bounding both sides, and of the owners of at least one half ($\frac{1}{2}$) of the frontage of such street or part of street to be improved; or order any sidewalk or gutter on one (1) side of the street to be built, on the petition of the majority of such owners, and of the owners of at least one half ($\frac{1}{2}$) of the frontage on such side; and may order any sidewalk or gutter previously built to be put in repairs when necessary without petition. For the purpose of so improving any street or building, or repairing any sidewalk or gutter, the common council may levy and cause to be collected upon the lots, tracts or parcels of ground on such street or part of street improved or on the side thereof, where only such sidewalk or gutter is to be built upon one side, and upon the owners thereof a tax sufficient to pay the expense of constructing such improvement as ordered opposite such property, to the center of the street, or such proportion thereof not less than one half as they shall deem justly assessable to such property, if they shall think that the whole ought not to be so assessed, in which case the remainder shall be paid from the city treasury. Every such tax for repairs shall be for the entire cost of repairs in front of the property so assessed. If any tax levied under this section shall prove insufficient to pay the cost or proportion thereof assessed to such property, the common council may levy such an additional tax thereon as shall make good such deficiency.

SEC. 2. Whenever the common council shall levy any such tax as specified in the preceding section, it shall make out and deliver to a street commissioner a list of the persons and a description of the property taxed, together with a warrant for the collection and expenditure of said tax, and thereupon the street commissioner shall notify the persons named in such tax list by publishing a notice in some newspaper published in said city, if there be one, or by posting up notices in three (3) or more public places in such city, and shall specify in such notice, a time or times, not less than forty (40) days from date thereof, when the persons charged with taxes in such list may pay his taxes in labor, materials or money; and the person charged with such tax may at such time and place as may be required by the said street commissioner, pay his taxes in labor or material, provided the labor and material offered in payment of such taxes are such as may be required by said street commissioner, and done and furnished to his satisfaction. The street commissioner shall be furnished with a book or memorandum by the city clerk, in which he shall keep an accurate account of all moneys coming into his hands by virtue of his office. The amount received and disbursed by him, the name of every person from whom labor or money is due, the amount paid in money or labor, and a correct account of all expenditures by him made as street commissioner. The book containing the account so

kept shall at all times when required be furnished for the inspection of the common council, and ten (10) days before the expiration of his term of office shall be handed to the city clerk to be filed in his office for the inspection of the tax payers in his district.

SEC. 3. At the expiration of forty (40) days from the date of said notices, given by said street commissioner, he shall make out and deliver to the city clerk of said city a certified list of the lots, pieces or tracts of land in said city, upon which tax remains unpaid, with the amount of such delinquent tax upon each of said lots or parcels of land, and thereupon shall be added to the amount of such tax a penalty of ten (10) per cent. of the amount thereof, which shall thenceforth be deemed to be a part of such tax, and from the time of the delivery of such certified list the said city clerk, the said tax shall draw interest at the rate of ten (10) per cent. per annum until paid. And at any time before the first (1st) day of September, any party liable may pay any such tax to the city clerk, who shall thereupon pay the same over to the city treasurer taking his receipt therefor, and such city clerk on the first (1st) day of September, or within fifteen (15) days thereafter, if any such tax remains unpaid, shall certify a copy of such delinquent taxes to the county auditor of Clay county, and the said auditor shall, upon the receipt of such statement and list, enter and carry out the same upon the proper tax list, and they shall be collected the same as other taxes are collected, and when collected he shall pay over the same to the city treasurer. And the treasurer of Clay county receiving any money on account of such delinquent tax shall pay over the same to the treasurer of the city of Barnesville, and take duplicate receipts therefor and file one (1) of the receipts with the city clerk of Barnesville.

CHAPTER VII.

MISCELLANEOUS AND SUPPLEMENTARY.

SECTION 1. The common council shall not have power to relieve any citizen from the payment of any lawful tax or license, or to exempt him from any burden imposed upon him by law, or order or ordain the payment of any demand not authorized and audited according to law, nor shall the common council have power to ordain or authorize any compromise of any disputed demand, or any allowance therefor, or therein, except as provided in the contract therefor, or the payment of any damages claimed for alleged injuries to person or property, except by ordinance, and adopted by a vote of three-fourths of the council. No action shall be had or maintained against the city of Barnesville for any damages claimed for alleged injuries to person or property after the fifteenth (15th) day of April, one thousand eight hundred and eighty-nine (1889), unless an action be commenced within one year after a cause of action has accrued.

SEC. 2 All actions brought to recover any penalty or forfeiture under this act or the ordinances, by-laws, or police, or health regulations made in pursuance thereof, shall be brought in the corporate name of the city.

SEC. 3. In all prosecutions of any violation of this act, 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 justice for violation of any ordinance or by-law of said city, shall run in the name of the city of Barnesville, and shall be directed to the sheriff or any constable of said county.

SEC. 4. In all cases of the imposition of any fine or penalty, or the rendering of any judgment by either of said city justices, pursuant to any ordinance or by-law of the said city of Barnesville, or pursuant to any provision of the charter of said city, as a punishment for any offense, or for the violation of any by-law or ordinance as aforesaid, the offender shall be forthwith committed to the county jail or the city prison, and be there imprisoned for a time not exceeding three months, in the discretion of the committing justice, unless the fine or penalty aforesaid be sooner paid or satisfied, and in all cases where the punishment of such offenders shall be by imprisonment such imprisonment shall be in the said county jail, and from and after the time of arrest of any person or persons, for any offense whatsoever, until the time of the trial or hearing, the person or persons so arrested may be imprisoned in the common jail of Clay county, or in the city prison, and in all cases where the said city justices are or may be authorized to commit any person or persons for any cause, by virtue of the provisions of this act.

SEC. 5. The city of Barnesville shall not be liable in any case for the board of jail fees of any person who may be committed by any officer of the city, or any magistrate, to the jail of Clay county, for any offence punishable under the state laws.

SEC. 6. No person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

SEC. 7. When any suit or action shall be commenced against said 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 said council may be in such case provided, or as may be needful in the matter.

SEC. 8. The city may prosecute an appeal in all cases to the district court or supreme court of the state. The mayor, in case of such appeal, or in any action or proceeding to which the city is a party, and in which a bond may be necessary, shall execute a bond, signed by him and the city clerk, who shall affix the corporate seal thereto, conditioned as may be necessary in such action, proceeding or appeal, but no sureties or justification shall be required for said bond. Nor shall the city be required in any case to file a bond or give other security for costs.

SEC. 9. 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 common 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 said city, and such judgment shall thereafter be paid as other claims and demands against said city; but no execution shall issue upon such judgment for a period of nine (9) months after the first annual levy of taxes by said city after the date of filing said transcript of said judgment as aforesaid with the said city clerk, *provided*, that the said common 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 said city not otherwise appropriated.

SEC. 10. The following property now or at any time hereafter, belonging to said city, shall be exempt from levy and sale under or by virtue of any 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 common council of said city; market houses, and the furniture thereof, city hall and furniture of common 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 public 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 said city or of any individual or corporation be levied on and sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

SEC. 11. All deeds, leases or other instruments executed by said city for the conveyance of real estate, or any interest therein, for a term exceeding one year shall be authorized by a resolution of the common council, which shall be quoted or referred to in such instrument and signed by the mayor and city clerk, who shall affix the seal of the city thereto.

SEC. 12. All bonds hereafter to be issued by said city and all orders on the treasurer, shall be signed by the mayor and city clerk, who shall affix the seal of the city thereto.

SEC. 13. The said city may lease, purchase and hold such real and personal estate as the common council may deem necessary or convenient, and may lease, sell and convey the same, and the same shall be free from taxation.

SEC. 14. All contracts for work to be done for said city, or for the purchase of materials or property of any kind for the public use of said city, not otherwise provided for in this act, in which the value of such work, or the price or value of such property or materials, shall exceed the sum of two hundred dollars (\$200) shall be let to the lowest responsible bidder, reserving to the council the right to reject

any and all bids. In such case the common council shall require a notice of not less than six (6) days of the time and place of letting such contract by publication in the official paper of said city, which notice shall substantially describe the work to be done and such other particulars as the common council may order, and shall designate the time and place when and where sealed proposals shall be received therefor, the said proposals shall be opened and considered by the common council at any regular or stated meeting thereafter, or at a special meeting, if designated in the notice; and upon any bid aforesaid being accepted, a contract in accordance therewith shall be drafted and submitted to said council at any regular or special meeting, for its approval, and upon the same being approved and signed by the city clerk it shall be executed on the part of the city by the mayor and city clerk, with the corporate seal of the city attached; and filed with the bond in the office of the city clerk. The said council shall require a bond on the part of the contractor to be executed with such conditions, and with such sureties, and in such amount as the council may prescribe, for the purpose of securing the performance of the contract; the common council shall also have the power to require every bid to be accompanied by a bond on the part of the bidder, in such sum and with such sureties and conditions as the common council may prescribe. Contracts for work or for the purchase of materials or property, where the value of the work or the price of the property or material shall not exceed the sum of two hundred dollars (\$200) may be authorized by resolution of the common council to be made and entered into by any committee or officer of said city designated in such resolution. Provided, that in the event of extraordinary and sudden injury by fire, flood or other unforeseen cause, to any public street, public building or other public property of said city, whereby such property or adjoining property may be endangered, or the public health or safety may require the immediate repair thereof, the said council may authorize the same by resolution passed by a two-thirds ($\frac{2}{3}$) vote of all the members elect, but the cost and expenses thereof shall not in any case exceed the sum of one thousand dollars (\$1,000), and the same shall be paid out of the general fund. When the said contract shall be countersigned by the city clerk he shall immediately thereafter deliver a certified copy thereof to the party or parties named in such contract, and until the delivery of such certified copy the same shall not be deemed the contract of said city, and no work shall be commenced or done thereunder until such contract is so delivered; nor shall the same be accepted by said city, or any accounts, claims, or demands allowed, audited and paid therefor.

SEC. 15. Any contractor or person who accepts a contract under said city, shall take the same with the conditions that he shall be personally and directly responsible for any and all loss, damage or injury to person or property by reason of the neglect or failure of himself or anyone in his employ, to so perform such work as to guard against all loss, damage and injury to person or property, and shall guard said work by suitable guards by day and with lights at night, so as to prevent any such loss, damage or accident.

SEC. 16. The city of Barnesville shall have the power to take private property for public use, upon just compensation therefor being

first paid or secured; such power shall be exercised through its common council, or as may hereafter be provided by law.

SEC. 17. All additions to the city of Barnesville, laid out and platted, as required by law, shall before the same takes effect, or is recorded in the office of the register of deeds, in and for Clay county, be presented to the common council of said city, at some regular or special meeting therefor, for acceptance by said city, of the dedication of streets, lanes, alleys, parks; or other public grounds thereon.

SEC. 18. No law of this state contravening the provisions of this act, shall be so construed as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

SEC. 19. Every ordinance of said city shall, after its passage, be published in the official newspaper of the city, which said newspaper shall be designated by a resolution of said council by a majority vote of the members elect, or in lieu of such publication, and in the discretion of the council to be evidenced by a resolution passed and adopted by a majority of the members elect, by a posting of said ordinance in three (3) of the most public places in the said city for ten (10) days previous to the same becoming law. The proof of such posting and publication by the affidavit of the person doing and performing said posting as to the time and places when and where; or any other competent proof of such posting shall be conclusive evidence of the legal passage, enactment, publication and promulgation of such ordinance, in any court of this state. If such ordinances or any of them, be published in the official paper as aforesaid, then proof of such publication, by the affidavit of the foreman, or one of the publishers of said newspaper with a printed copy of the ordinance annexed thereto, or any other competent proof of such publication, shall be conclusive evidence of the legal passage, enactment, publication and promulgation of such ordinance in any court of the state.

SEC. 20. The files, papers in the office of the city clerk or any other office of said city, or copies thereof duly certified by the officer having the same in charge, proofs of publications of all notices, resolutions, orders or proceedings of the common council required to be published under this act, on file in the proper office, or copies thereof certified by the officer having the same in charge shall be received and read in evidence in all courts and places without further proof.

SEC. 21. All printed compilations of the laws and ordinances of the city, and all printed publications of the proceedings of the common council, or any of the officers of the said city, if published, purporting to be published, compiled or revised by or under the authority of the said city, or any of its officers, shall be admissible in all courts of law, and on all other occasions in this state as evidence of such laws, ordinances and proceedings.

SEC. 22. That it is hereby made the duty of the Register of Deeds of Clay county, to record any deed or any other instrument in which the grantor or grantee is the city of Barnesville, without requiring the same to be certified "Taxes paid and transferred," entered or paid by sale of land described within, any general law of this state to the contrary notwithstanding.

SEC. 23. All laws of the state of Minnesota whether general or spe-

cial conflicting with the provisions of this act, in so far as they affect the city of Barnesville are hereby repealed.

SEC 24. This act shall take effect and be in force from and after its passage.

Approved April 4th, 1889.

CHAPTER 4.

[H. F. No. 489.]

AN ACT TO INCORPORATE THE CITY OF SAUK CENTRE.

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

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

SEC. 2. The boundaries of said city shall be as follows: Commencing at the northeast corner of the southwest quarter (S. W. $\frac{1}{4}$) of section number three (3), in township number one hundred and twenty-six (126) of range number thirty-four (34); thence west to the northwest corner of the southwest quarter (S. W. $\frac{1}{4}$) of section number four (4) in said township and range; thence south to the southwest corner of the northwest quarter (N. W. $\frac{1}{4}$) of section number sixteen (16); thence east to the southeast corner of the northwest quarter (N. W. $\frac{1}{4}$) of section number fifteen (15); thence north to the place of beginning, all being in township number one hundred and twenty-six (126) of range number thirty-four (34).

Provided, however, that no assessment or levy of any tax shall be made upon any of the land above described not heretofore included in and forming a part of the village of Sauk Centre for payment of any portion of the indebtedness, principal and interest which has been created or authorized by said village, for water works, until water mains shall be extended into such territory not embraced in said village. That when water mains shall be so extended, then, in that case the territory to be benefited shall be taxed for its proportionate share of the existing indebtedness.

SEC. 3. The said city shall be divided into two wards, limited and bounded as follows: All that part of the territory hereinbefore de-