

**CHARTER COMMISSION**

**Brainerd, Minnesota  
August 11th, 2021  
5:00 P.M.**

**City Hall Council Chambers**

\_\_\_\_\_ K. Bevans  
\_\_\_\_\_ J. Czczok  
\_\_\_\_\_ J. Burton  
\_\_\_\_\_ K. Yeager  
\_\_\_\_\_ M. O'Day  
\_\_\_\_\_ C. Marohn  
\_\_\_\_\_ A. Shipe  
\_\_\_\_\_ J. Lambert

**1. Call to Order**

**2. Roll Call**

**3. Approval/Amendment of Agenda**

**4. Approval of Minutes**

- Meeting Held on July 14<sup>th</sup>, 2021

**5. Old Business**

**1. Consider Redlined Version of the Charter**

- Chapter Two, Section 31: Changed the mill levy language to % of previous years' levy
- Chapter Three, Section 3a, 4, 7 and 8: Changed the mill levy language to the % of previous years' levy
- Chapter Three, Section 4, 7 and 8: Changed the language to provide more generic terms for organizations who can receive funding and clarified that the organization shall be within the city limits of Brainerd
- Chapter Seven, Section 2: Clarified language to reflect the appointment of a Clerk and Treasurer by the Park Board
- Chapter Seven, Section 3: Remove the employment sentence
- Chapter Seven, Section 5: Remove the compensation sentence

**6. Next Steps**

**7. Adjourn**

**Any individual needing special accommodations, please call 828-2307.**

# MEMO



**TO:** Charter Commission Members  
**FROM:** City Administrator, Jennifer Bergman  
**DATE:** August 6, 2021  
**RE:** Consider Redlined Version of the Charter

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The Charter Commission discussed several topics at their July meeting and directed staff to prepare a red-lined version of the recommended changes for the Charter for the Commission to consider at their August meeting (see attached).

Items of note:

- Chapter Two, Section 31: Changed the mill levy language to % of previous years' levy
- Chapter Three, Section 3a, 4, 7 and 8: Changed the mill levy language to the % of previous years' levy
- Chapter Three, Section 4, 7 and 8: Changed the language to provide more generic terms for organizations who can receive funding and clarified that the organization shall be within the city limits of Brainerd
- Chapter Seven, Section 2: Clarified language to reflect the appointment of a Clerk and Treasurer by the Park Board
- Chapter Seven, Section 3: Remove the employment sentence
- Chapter Seven, Section 5: Remove the compensation sentence

## **Recommendation**

Staff would like to review the recommended changes to assure that this is the intent of the Charter Commission. If so, the Commission could forward the recommended changes to the City Council for their consideration.

# **BRAINERD CITY CHARTER**

## **CHAPTER ONE**

### **NAME, BOUNDARIES, POWERS AND DIVISIONS**

1. All that district of country in the county of Crow Wing contained within the limits and boundaries as now are or hereafter may be established shall be a City by the name of "Brainerd," and all the people now inhabiting, and those who shall hereafter inhabit the same district shall be a municipal corporation by the name of "The City of Brainerd", and by that name may sue and be sued, plead and be impleaded, in any court; make and use a common seal, and alter it at pleasure; take and hold, lease and convey, all such real personal and mixed property as the purposes of the corporation may require, or the transaction or exigencies of the business may render convenient, within or without the limits of such district; shall be capable of contracting and being contracted with, and shall have all the general powers possessed by municipal corporations at common law, and, in addition thereto, shall possess all powers hereinafter specifically granted; and all the authorities thereof shall have perpetual succession.
2. That the Council be empowered to divide the City of Brainerd by ordinance into four (4) wards as equal in size and population as practicable. The Council must, within 60 days after each U.S. decennial census, readjust the boundaries of the four (4) wards provided there is a 10% or more deviation in population among said wards and if the Council does not do so, the Charter Commission of the City of Brainerd is empowered to do so.
  - a. **FIRST WARD:** All of the territory south of the main line of the Burlington Northern Santa Fe Railroad and east of the Mississippi River beginning at the mainline railroad tracks and following said River south to the south City limits/Woodland Hills Lane, thence east to Greenwood Street, thence south to the centerline of the South 6th Street/Business Highway 371, thence northeast to the centerline of County Road 117, thence east to the centerline of the Spur Line Trail, thence north to the centerline of Willow Street, thence west to the centerline of South 6th Street/Business Highway 371, thence north to the centerline of Rosewood Street, thence east to the centerline of South 7th Street, thence north to the centerline of Quince Street, thence east to the centerline of the Spur Line Trail, thence north to the mainline railroad tracks of the Burlington Northern Santa Fe Railroad, thence west to the Mississippi River to the point of beginning.
  - b. **SECOND WARD:** All of the territory within the City limits west/northwest of the Mississippi River, and, southeast of the Mississippi River commencing at the intersection of the centerline of the Mississippi River and the main line of the Burlington Northern Santa Fe Railroad, thence east along the railroad tracks to the centerline of North 8th Street, thence north to the

centerline of Washington Street, thence east to the centerline of North 10th Street, thence north to the centerline of Grove Street, thence east to the centerline of North 11th Street, thence north along North 11th Street to the centerline of Evergreen Avenue, thence northeast to the Public Access driveway, thence north along the driveway to the centerline of the Mississippi River.

- c. THIRD WARD: All of the territory north of the main line of the Burlington Northern Railroad and east of a line commencing at the intersection of the Burlington Northern Santa Fe main line track and the centerline of North 8th Street , thence north along North 8th Street to the centerline of Washington Street, thence east to the centerline of North 10th Street, thence north to center line of Grove Street, thence east to the centerline of North 11th Street, thence north to the centerline of Evergreen Avenue, thence northeast to the Public Access Driveway, thence north along the driveway to the centerline of the Mississippi River, thence northeasterly along the centerline of the Mississippi River to the east City limits.
- d. FOURTH WARD: All of the territory South of the main line of the Burlington Northern Railroad and east of a line commencing at the intersection of the Burlington Northern Santa Fe main line track and the centerline of the Spur Line Trail, thence south to the centerline of Quince Street, thence west to the centerline of South 7th Street, thence south to the centerline of Rosewood Street, thence west to the centerline of South 6th Street/Business Highway 371 thence south to the centerline of Willow Street, thence east to the centerline of the Spur Line Trail, thence south to the centerline of County Road 117, thence west to the centerline of South 6th Street/Business Highway 371, thence south to the south City limits.

**CHAPTER TWO**  
**OFFICERS AND ELECTIONS**

1. The elective officers of the City shall be a Mayor and seven City Council Members. Of the seven Council Members, three shall be elected at large and one from each ward. All elective officers shall be residents of the City of Brainerd and the four ward Council Members shall be residents of their respective wards.
2. When more than twice the number of individuals file to be elected to a municipal office, a primary election shall be conducted and the returns made and results canvassed consistent with the general laws of the State of Minnesota pertaining to primaries. The regular City election for the election of City officers shall be held on the first Tuesday after the first Monday of November in each even numbered year; and all general laws of the State of Minnesota, relating to the election of City officers and the primaries thereof, shall, so far as applicable, apply to and govern all nominations and elections under this Charter, and all special elections, and are hereby adopted as a part of this Charter, the same as if herein specifically reenacted. The judges, clerks and other officers of election at the then last general election for state officers shall be the judges, clerks and other officers of all special City elections, except that the City Council shall appoint additional officers as permitted by law. Election returns shall be made and results canvassed consistent with the general laws of the State of Minnesota pertaining to general elections.
3. The term of office of every officer elected under this Charter, unless otherwise provided for, shall commence on the first Monday of January following the election and shall continue for a term of four years and until his or her successor is elected and qualified.
4. The appointive officers of the City shall be a City Attorney, Public Utilities commission to consist of five (5) members, a Park and Recreation Board to consist of five (5) members, and a Library Board to consist of nine (9) members, and such other officers as the City Council deem proper and necessary. Provided, however, that no elective or appointive person holding office in the City of Brainerd may be appointed to the Public Utilities Commission.
5. At its first regular meeting in January of each odd-numbered year the Council shall, by majority vote, appoint the City Attorney. All terms shall commence at the time of appointment and continue until successors to the appointed offices are appointed and qualified.
6. The members of the Public Utilities Commission, the Park and Recreation Board, and the Library Board shall be appointed by the Mayor and their appointment confirmed by the City Council: such appointments and confirmation shall be made at the first regular Council meeting in January of each year; at which time there shall be appointed one (1) member of the Public Utilities Commission, one (1) member of the Park and Recreation Board; and every other year and three (3) members of the Library Board. The term of office for a member of the Library Board shall be for six

(6) years, the term of office for a member of the Public Utilities Commission shall be for five (5) years, and the term of office for a member of the Park and Recreation Board shall be for five (5) years. Such terms of office shall commence upon their appointment and qualification and continue for said terms until their successors are appointed and qualified.

7. Any elective or appointive officer provided for by this Charter having entered upon the duties of the office may resign the same. Any elective or appointive officer changing residence from the City, or any Alderman from the ward for which elected or appointed shall be deemed to have vacated such office.
8. Every person appointed to any office by the City Council or Mayor may be removed from such office by a vote of two thirds of all the Aldermen authorized to be elected. But any officer appointed by the Mayor shall not be removed except for cause, nor unless first furnished with a copy of the charges, nor until such person shall have reasonable opportunity to be heard in person, or by counsel in his or her defense.

The Council shall fix the time and place for the hearing of such officer, of which not less than ten days' notice shall be given to such officer and shall have the power to compel the attendance of witnesses and the production of papers, and to hear and determine the case; and if such officer shall refuse or neglect to appear and answer such charges, the City Council may declare such office vacant. Among such causes shall be continued absence by a member of a board from three successive regular meetings of such board, or neglect of duty of any officer.

9. Any person shall not be eligible to serve on a Board or Commission of the City under this Charter who has ever been convicted of a felony, or is not at the time of his appointment a qualified elector of the City of Brainerd (unless otherwise expressly allowed by the City by ordinance, resolution or policy), or who is at such time interested in any contract with the City of Brainerd to which the person is a party, either individually or as a member of a firm, or as director or other managing officer of a corporation.
10. Whenever any vacancy shall occur in any elective or appointive office, such vacancy shall be filled by the City Council in the manner provided for appointments by the City Council; except that the members of the Public Utilities Commission, the Park Board and the Library Board, shall be appointed by the Mayor and confirmed by the City Council.

All officers so appointed shall hold their respective offices for the balance of the unexpired terms.

11. Every person elected or appointed to any office under the provisions of this Charter shall before entering upon the duties of the office take and subscribe an oath of office and file the same with the City Clerk. The Administrator and such other officers as the City Council shall require and as shall be required by the provisions of this Charter, shall severally, before they enter upon the duties of their respective offices, execute to the City of Brainerd, bonds in such amounts as the Council shall

prescribe, conditioned that such officers will faithfully perform the duties of their respective offices, and account for and turn over all money and other property, coming into the officer's hands. Such bond and the expense thereof, if a surety bond, shall be paid by the City.

All official bonds shall be approved by the City Council and be kept on file in the office of the City Administrator.

12. The compensation of all elective and appointive officers of the City shall be fixed by ordinance as permitted by State Statute.

13. The Mayor shall be the chief executive of the City and see that the laws of the state and the ordinances of the City are duly observed and enforced within the City and that all other officers of the City discharge their duties. The Mayor shall be an ex-officio member of the City Council, for the purpose only of casting the deciding vote upon any question before said Council when the Council Members composing the said Council present and voting are equally divided thereupon. The Mayor shall from time to time give the City Council such information and recommend such measures as the Mayor deems to be in the best interest of the City. The Mayor shall sign all bonds, contracts, warrants, ordinances, resolutions and such other papers and documents as may be made or executed in behalf of the City. All Ordinances and Resolutions shall before they take effect be presented to the Mayor, and if the Mayor approves thereof shall sign the same, and such as the Mayor shall not sign, shall be returned to the Council with the Mayor's objection thereto, by depositing the same with the City Administrator to be presented to the City Council at its next meeting.

Upon the return of any ordinance 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 of all the members of the Council, it shall have the same effect as if approved by the Mayor. If any ordinance or Resolution shall not be returned by the Mayor within five days, Sundays and holidays excepted, after it shall have been presented to the Mayor, the same shall have the same force and effect as if approved by the Mayor. In case the Mayor shall be guilty of willful oppression, corrupt partiality or other malfeasance in the discharge of the duties of the office the Mayor shall be liable to indictment and on conviction thereof shall be punished by a fine of not more than Five Hundred (\$500.00) Dollars.

14. At the first meeting of the City Council after the regular City election it shall proceed to elect by ballot from its number a President and Vice-President. The President shall preside over the meetings of the City council and appoint all standing and temporary committees thereof, and during absence of the Mayor from the City, or the Mayor's inability for any reason to discharge the duties of the office, the said President shall exercise all the powers and discharge all the duties of the Mayor.

In case the President shall be absent at any time the Vice-President shall discharge the duties of such President and act in the President's place. The President or Vice-

President while performing the duties as Mayor shall be styled "Acting Mayor", and acts performed by either when acting as Mayor, shall have the same force and validity as if performed by the Mayor.

15. The City Administrator shall be the chief administrative officer of the City of Brainerd. The Council shall delegate to the City Administrator by Ordinance whatever powers and duties it deems necessary or proper for the efficient administration of City affairs. Such delegation may include, but is not limited to, supervision of City employees and department heads. Provided, however, that the City Attorney shall be directly responsible to the Council and Mayor for professional advice and services. The Council may at any time rescind or amend authority delegated to the City Administrator. At no time shall such delegation abridge the authority of a Council Member or the Mayor or the Public Utilities Commission or any other board or commission enumerated in the Charter in fulfilling their duties granted in this charter.
16. Any elective officer, whether elected by popular vote or appointed to fill a vacancy, may be removed at any time for malfeasance or nonfeasance in office, by the electors qualified to vote for a successor of such officer. The procedure to effect a removal of such elective municipal officer shall be as follows:
17. A petition signed by electors entitled to vote for a successor of the officer sought to be removed equal in number to at least twenty-five percent of the entire vote for all candidates for the office, the incumbent of which is sought to be removed, cast at the last preceding regular municipal election, demanding an election of a successor of the person sought to be removed, shall be addressed to the Council and presented to the City Clerk; provided, that the petition shall contain a general statement of the ground for which the removal is sought.
18. If the petition shall be found to be sufficient the Administrator shall transmit the same to the Council without delay. If the petition shall be found to be sufficient the City Council shall order, and fix a date for holding the said election at the next election date authorized by state law that is not less than seventy-seven (77) days from the date of the Administrator's certificate to the Council that a sufficient petition is filed. The Council shall make or cause to be made publication of notice, and all arrangements for holding such election, provided, that in the published call for the election there shall be printed in not more than 200 words the reason for demanding the recall of the officer as set forth in the recall petition, and in not more than 200 words the officer may justify his or her course in office: and said election shall be conducted, returned, and the result thereof declared, in all respects, as are other City elections.
19. At an election on removal, the question on the ballot shall be in substantially the following form: "Shall ..... (Name) elected (appointed) to the office of ..... (title) be removed from that office?" If a majority of voters at the election vote in the affirmative, the officer shall be recalled and removed.

20. No person who has been removed from office by recall, or has resigned from office after the filing of a recall petition, shall be appointed to any office under this Charter within one year after such removal or resignation.
21. In so far as practical, all laws and provisions for holding regular or special elections in the City shall apply to such recall election and the preliminaries thereto, and wherein applicable or impractical the Council shall by Ordinance provide such other and further regulation consistent herewith as may be necessary to carry out the provisions of Sections 16, 17, 18, 19, and 20.

#### DUTIES OF THE CITY ATTORNEY

22. The City Attorney shall perform all professional services incident to the office; shall attend all meetings of the City Council, and when requested shall attend all meetings of committees of the Council. The City Attorney shall give legal opinions and advice upon all questions pertaining to City business when requested so to do by the City Council or any officer of the City. The City Attorney shall institute, prosecute and defend all actions brought by the City or against the City; and shall draw and prepare all ordinances, resolutions, contracts, bonds or other instruments in which the City or any board thereof is interested. The City Attorney shall be the legal advisor of the Public Utilities Commission, the Park Board and the Library Board, and the committees thereof; shall attend the meetings of the said boards when requested so to do and furnish to the said boards written legal opinions when requested, and shall institute, prosecute and defend all actions which may be brought by or against said boards or by or against the City affecting the affairs of such boards.

The Council shall have power to appoint and employ special counsel to assist the City Attorney in the performance of any of the City Attorney's duties and fix and pay the compensation therefor.

#### DUTIES OF CITY OFFICERS

23. All City officers shall perform such other duties as may be directed by the City Council by Ordinances, Resolutions or otherwise.
24. No officer of the City shall retain any property, papers, books, and effects of any kind that belong to the City or pertain to the office after the expiration of the officer's term.
25. The Council shall annually at its first meeting of the year designate a legal newspaper of general circulation in the City as its official newspaper in which shall be published Ordinances and other matters required by law to be so published as well as such other matters as the Council may deem it in the public interest to have published in this manner.

26. The City Council may also at the time mentioned in the last section and in the manner therein specified, let a contract for doing of the job printing of said City, and may determine what contract and bond should be required of the person or persons selected to do such job printing.

27. Except as provided by state law, no City officer shall be directly or indirectly interested in any contract of any character with the City or any department or board thereof, either as vendor, purchaser, contractor, employer, employee or otherwise. All contracts made in violation of this section shall be void, and no money shall be paid on account thereof, or any warrants issued. Any officer who shall issue or pay any such warrants knowing that the same are in violation of the terms of this section shall be guilty of a misdemeanor; and any officer violating the provisions of this section shall forfeit the office and the office shall thereby become vacant upon a finding and conviction thereof, as provided in Section Ten of this Chapter.

#### DUTIES OF THE CITY COUNCIL

28. The Council Members shall constitute the City Council and shall be the governing body of the City, and the style of all Ordinances shall be, "The Council of the City of Brainerd do ordain". A majority of all the Council Members shall constitute a quorum. The President or Vice- President of the Council shall when present preside at all meetings. In their absence the Council may elect a President pro tem who shall for such meetings and the proceeding thereof have the same power as the President.

29. The City Council shall hold public meetings which shall not be less than one meeting per month. The meetings shall be fixed by the City Council. Minutes of the Council proceedings shall be made and be available to the public. The Mayor, the President or Vice-President of the Council or any two of the Council Members may call special meetings by notice filed with the City Administrator and served upon each of the members by delivering the same personally or left at the place of their usual abode, or a special meeting may be called by the Mayor, President, Vice-President or President pro tem at any regular meeting of the City Council by giving notice thereof and noting the same in the minutes of the meeting. In case the attendance at any regular or special meeting of the City Council is less than a quorum such meeting may be adjourned to any time that may be designated and entered in the minutes of the meeting. Except in cases of emergency, the City Council shall not meet on a Sunday, a legal holiday or a day of general or special election.

30. The City Council shall have the management and control of all the finances and property of the City and of all the departments thereof subject to the other provisions of this Charter. However, no real estate belonging to the City shall be sold or disposed of unless so ordered by two thirds vote of all the members of the City Council; and provided that neither the water works nor the electric light plant,

nor any other public utility, which shall hereafter be owned by the city, shall be sold, leased, mortgaged or otherwise disposed of unless authorized to do so by a four-sevenths majority of the qualified electors of said City.

The City Council shall in addition to the powers herein vested in them have power and authority to make, enact, ordain, establish, publish, enforce, order, modify, amend and repeal all such ordinances, resolutions, rules, by-laws and regulations 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 provide for the imprisonment and safe keeping of all persons arrested or charged with any offense.

The City 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, resolution, rule or by-law passed or ordained by them: and all such ordinances, resolutions, rules and by-laws are hereby declared to be and have the force of law, and for the said purposes shall have authority by ordinance, resolution or by-laws, to the extent permitted by law.

31. The Council of the City of Brainerd shall be authorized to exceed its overall levy limitations ~~pursuant to Minnesota Statutes, Sections 275.50 to 275.58, as amended, for the levy year 1987, by an amount not to exceed 3% of its previous years' total levy an amount equal to a sum producible from a one mill levy on the dollar~~ of the taxable property of the City of Brainerd prior to the time of such levy, which may be levied on the taxable property within its boundaries in addition to all other taxes voted by it. ~~The value of the mill levy shall be converted to a tax rate percentage by using a formula as established by the Minnesota Department of Revenue and calculated by the County Auditor.~~ It shall be exempt from ~~statutory the penalty provisions of Minnesota Statutes, Section 275.51, Subdivision 4, as well as any other penalty provisions,~~ and shall also be over and above any limitations in the Charter of the City of Brainerd prior to the time of such levy. Such additional levies shall be used for the purpose of establishing and maintaining a public bus or transit facility or subsidizing a private bus or transit facility. In the next succeeding levy year and thereafter, such amounts shall become a permanent adjustment to the levy base per capita of the City of Brainerd.

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32. The City Council may create an ordinance which may impose punishment for the breach of any Ordinance of the City to impose a fine and imprisonment as permitted by state law.

33. All Ordinances, Resolutions and By-Laws shall be passed by an affirmative vote of a majority of the members of the City Council present by an aye and nay vote.

All Ordinances shall be twice read at length in open Council before their passage unless the reading is dispensed with by unanimous consent: and no Ordinance shall be passed within ten (10) days after being first so read.

All Ordinances shall be once published in the official paper of the City, and no Ordinance shall take effect until one week after the day of such publication. All Resolutions and By-Laws shall take effect from and after their passage or adoption unless the City Council shall expressly order to the contrary; provided, however, that all Ordinances in relation to contagious or infectious disease or hydrophobia may be passed at the meeting of the first reading, and take effect from and after their passage if the City Council so order.

34. A copy of the record of any Ordinance or Resolution heretofore passed or that may hereafter be passed, certified by the Administrator and verified by the seal of the City, or recorded in the books containing the official proceedings of said Council, or published in any compilation of Ordinances made under the direction of the City Council, shall be prima facie evidence of the contents of such Ordinance or Resolution and of the regularity and legality of all proceedings relating to the adoption and approval thereof: and shall be admitted as evidence in any court in this state without further proof.

In all actions, prosecutions and proceedings of every kind before a court, the court shall take judicial notice of all ordinances of said City, and it shall not be necessary to plead or prove such Ordinances.

35. The powers conferred upon the City Council to provide for the abatement or removal of nuisances shall not bar or hinder suits, prosecutions or proceedings in the courts according to law.
36. No appropriation shall be made without a vote of a majority of all the members of the City Council in its favor, which shall be taken by ayes and nays vote, and entered among the proceedings of the Council. No vote of the City Council shall be reconsidered or rescinded at any meeting unless there shall be present at such meeting as large a number of Council Members as were present when said vote was originally taken.
37. The City Council shall examine, audit and adjust the accounts of the City at such times as it deems proper or as otherwise required by law.
38. The City Council shall have the power to make purchases on behalf of the City and may make purchases through such methods or designees as the Council may determine from time to time by Ordinance or Resolution. The provisions of this section shall not apply to purchases made by, or in behalf of the Public Utilities Commission or the Park Board or the departments under their control respectively.

## CHAPTER THREE

### FINANCES

1. The fiscal year of the City shall be the calendar year.
2. Except as otherwise provided herein, all disbursements shall be made by check or electronic transfer. Checks shall be signed by the Mayor and countersigned by the City Administrator. All payments are to be reviewed and approved by the City Council
3. The City Council shall annually levy taxes to provide for the following specifically designated fund:
  - a. A PERMANENT IMPROVEMENT FUND, for paying such portion of the cost of improving streets and alleys as shall devolve upon the City, under the provisions of Subdivision (11) of this Section 46. For the support of this fund the City Council shall annually levy on taxable property of the City taxes to an amount not to exceed 9% of the City's previous year's total levy. ~~an amount producible from three (3) mills on the dollar of the then latest previous assessed valuation of such taxable property. The value of the mill levy shall be converted to a tax rate percentage by using a formula as established by the Minnesota Department of Revenue and calculated by the County Auditor.~~ No part of this fund shall be used for any other purpose. In anticipation of the collection of such taxes for the then current year and succeeding years, the City Council may at the proper time, and from time to time, issue and dispose of certificates of indebtedness in an aggregate amount equal to eighty (80) per cent of such levy in the then current year and estimated amount for not more than ten succeeding years; provided, that the issuable aggregate of such certificates of indebtedness shall at no time exceed the sum of money then in the permanent improvement revolving fund under the provisions of Section 49 of the City Charter, as herewith amended, together with the additional amount of bonds that may or can be issued thereunder, added to the total of cash payments guaranteed by bonds of owners of real property abutting on such or similar street or alley improvements. These certificates shall be known as Re-paving Certificates of Indebtedness, and on every one shall be stated the particular purpose for which it is issued or describe the specific improvement on which it is based. Such certificates shall be consecutively numbered, with date of issue, date of maturity, bear interest, payable semi-annually, have proper interest coupons attached, be signed by the Mayor, countersigned by the City Administrator and be attested by the corporate seal; and, so far as practicable, shall be in denominations of not less than \$500.00. Whenever occasion arises for the issuance of such repaying certificates, it shall be the duty of the City Council to make requisite calculations, computations and estimates with respect to the quantity and various times of collection of taxes so levied and to be levied,

and thereupon, as the circumstances may require, to issue and sell one or more of such certificates. All such certificates shall be so issued as to mature serially, on proper dates, to the end that eighty (80) per cent of the estimated tax collection for this fund in each and every year will pay the certificates as they mature, and succeeding issues shall appear in regular order following previously issued certificates; and whenever there is an unused or unappropriated margin of such eighty (80) per cent of the estimated tax collection for this fund, over and above the aggregate amount of all such certificates theretofore issued, then and under such circumstances the earliest maturing certificates of the next succeeding issue shall be made to mature at such times and in such manner as to assure payment thereof out of, and at the time of collection of, such prior unused or unappropriated margin of such eighty (80) per cent of such estimated tax collection. If in any year the taxes collected for this fund shall not be sufficient to pay the certificates maturing in that year, the deficit shall be paid from the general fund. The earliest maturing certificates of the first issue hereunder shall mature on the first day of December in the year following the year of their issuance, and the other certificates in such issue, to mature later and serially, shall be distributed in succeeding serials and follow in such order of maturity that eighty (80) per cent of the estimated tax collections, year by year, will pay such certificates in each and every year thereafter. Neither the City Council nor any officer of the City shall in any year appropriate, expend or disburse any part of this fund, or do any other act therewith, at such time or in such manner as to render the available balance thereof insufficient to pay, when due, the certificates maturing in that particular year. The City Council shall, at the proper time, and from time to time, prepare for every issue and sale of such re-paving certificates of indebtedness by appropriate resolution setting forth in sufficient detail the date of issuance, number or quantity, specific denominations and various dates of maturity thereof, the rate of interest thereon, and the nature or character, location, extent and approximate total cost of the particular improvement on which the same are founded. The sale of such certificates of indebtedness shall be made, conducted and carried on in the manner provided for sales of bonds under the certain provisions of section 49 of the City Charter, as herewith amended; provided, further, that no certificate shall be sold for less than par and accrued interest.

4. That annual amount to be levied for general taxation in any year for all said funds, shall not exceed the amounts as established by state statute. There shall be a levy of 1.5% of the previous year's total City levy one-half mill on the assessed valuation of City taxable property over and above any Charter limitations and total levy limitations set forth in state statute, commencing for the levy year 1976 and continuing each levy year thereafter for an entity within the city limits of Brainerd to provide community action programs and events. ~~Community Action Program. The value of the levy shall be converted to a tax rate~~

~~percentage by using a formula as established by the Minnesota Department of Revenue and calculated by the County Auditor.~~

5. Before any bonds be issued, the City Council shall, at a regular meeting or at a special meeting called for the particular purpose, adopt appropriate resolutions by an affirmative vote of three-fourths of all its members ordering the issue, and every such resolution shall set forth the amount of the issue and the specific object thereof, be written at length in the records of the Council proceedings and be published and take effect in accordance with the provisions of Section 34 of the City Charter.
6. On or before the first day of September in every year, the President of the City Council, the Chairman of the Finance Committee of the Council and the City Administrator shall submit to the City Council an estimate of the probable expenditures of the City government for the ensuing fiscal year, stating the amount required to meet the interest and maturing bonds of the outstanding indebtedness of the City, and specifically showing the various amounts necessary for each and every fund, including an estimate of the total income from all sources of revenue other than taxes upon property, and the probable requisite amount to be levied and raised by taxation to defray all such expenses and liabilities of the City.
7. There shall be a levy of ~~1.5% of the previous year's total City levy~~ one-half mill on the assessed valuation of City taxable property over and above any Charter limitations and total levy limitations set forth in state statute, for the 1982 levy collectible in 1983 and continuing each levy year thereafter for the establishment and maintenance of a program for the benefit of senior citizens or to subsidized non-profit senior citizens organization within the city limits of Brainerd. ~~The value of the mill levy shall be converted to a tax rate percentage by using a formula as established by the Minnesota Department of Revenue and calculated by the County Auditor.~~
8. ~~There shall be a levy of 1.5% of the previous year's total City levy ½ mill on the assessed valuation of taxable property in the City commencing at the earliest levy year after adoption of this amendment and continuing each levy year thereafter for the Northland Arboretum and Paul Bunyan Conservation Area an arboretum or green space organization within the city limits of Brainerd. Before funding from the City is transmitted, an annual financial statement for the prior fiscal year shall be provided by the Northland Arboretum and Paul Bunyan Conservation Area to the City Council showing revenues and expenditures to ensure proper use of funds. The value of the mill levy shall be converted to a tax rate percentage by using a formula as established by the Minnesota Department of Revenue and calculated by the County Auditor.~~

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## **CHAPTER FOUR**

### **FIRE DEPARTMENT**

1. The City Council shall have power to purchase, keep and maintain fire extinguishers, fire engines and other fire apparatus, to build and maintain engine houses, hose houses and such other buildings as may be necessary or convenient, also to erect and maintain fire alarm telegraphs and boxes, and other means of giving notices of fires.
2. Whenever the City Council may decide by a two-thirds vote of all its members that greater protection can be secured by a paid fire department, it may by resolution duly passed, abolish the existing volunteer fire department and create in lieu thereof, a paid fire department, which shall be officered and managed as provided in the next section.
3. In the event of the creation of a paid department the City Council shall appoint a Fire Chief of said fire department and provide for such other officers and employees as may be deemed necessary for such department.
4. The Council shall have power and authority to make by Ordinance all needed rules for the government of the fire department and for the protection and use of all fire stations and other property and apparatus pertaining thereto.

## CHAPTER FIVE

### STREETS

1. The City Council may by a vote of two-thirds of the members thereof, vacate any highway, street, lane, or alley, or portion of either, and such power of vacating highways, streets, lanes and alleys within the City of Brainerd is vested exclusively in the City Council and no court or other body or authority shall have any power to vacate any such highway, street, lane or alley.
2. The City Council shall have power to designate districts or portions of the streets and alleys of the City for the purpose of cleaning the same and may provide for the cleaning of such districts by a contract on such terms as shall be deemed advisable.
3. It is hereby made the duty of all owners of land adjoining any street, lane or alley in said City, to construct, reconstruct and maintain in good repair such sidewalks along the side of the street, lane or alley next to the lands of such owners respectively, as may have been heretofore constructed, or shall hereafter be constructed, or directed by the City Council to be built, and of such material and width, and upon such places and grades as the City Council may by ordinance or otherwise prescribe. Whenever the City Council shall deem it necessary that any sidewalk in the City of Brainerd shall be constructed or re-constructed, it shall by resolution direct such construction or re-construction, specifying the width thereof, and the material of which the same is to be constructed. The publication of such resolution once in the official paper of the City shall be sufficient notice to the owners of the land along which said sidewalk is to be built to construct the same, and unless such owners shall each along each owner's respective land, construct and fully complete such sidewalks within two (2) weeks after the publication of such resolution as aforesaid, the City Council shall forthwith proceed to ascertain the expense of constructing the same and assess and levy such expense upon and against each lot and parcel of land upon which such sidewalk shall front. Such assessment shall be collected in the same way in all things as provided for the collection of special assessments under the provisions of Section 75 of this Charter. And the City Council may either before or after making such assessment cause such portion of such sidewalks as have not been built by the owners of such land fronting on the same and all street crossings to be built by the City, or upon contract or by any other person as the council may determine.
4. If the owner of any lot or parcel of land shall suffer any sidewalk along the same to become broken, rotten or out of repair, it shall be the duty of the City Engineer to immediately repair the same in a good, substantial and thorough manner, and to report to the City Council the cost of such repairs in each case, and a description of the lot or parcel of land abutting which such repairs are made, and such report shall be filed and carefully preserved by the City Administrator. And the City Council shall once in each year, at, or as near as conveniently may be,

the time of levying the yearly City taxes, assess and levy upon each of the parcels of land fronting or abutting upon sidewalks which have been repaired by the City, the cost of making such repairs. In each case such assessment for all such repairs within the year may be combined in one assessment roll and be collected as provided for in other special assessments in this Charter. In case any such sidewalk shall become so out of repair as to become dangerous and cannot be made safe without being rebuilt, and there are no funds to defray the expense of such rebuilding, it shall be the duty of the City Engineer to remove the same entirely, and the expense of such removal shall be added to the cost of rebuilding when the same shall be reconstructed, and collected with the assessment for such reconstruction.

5. It shall be the duty of the City Council, before ordering the construction of any new sidewalk, to cause ground on which is to be built to be properly graded.
6. No railway company or street company shall have any right in cleaning their tracks through any part of the City or otherwise, to pile up snow or other material and leave the same piled upon any traveled portion of any street in the City. Any such company shall be liable to any person who shall be injured by means of any obstruction caused by the company or its servants for all damages sustained.
7. It shall require a two-thirds (2/3) vote of the members elect of the City Council to determine, in the first instance to make any improvement for which a special assessment may be levied, except in respect to sidewalks, when a majority shall suffice. But this restriction shall not apply to any subsequent act of the Council touching such improvement, or the special assessment to provide means therefor.
8. The City Council may at its discretion defer payment of certain special assessments for street improvements as defined in Chapter 429 of the Minnesota Statutes where a financial hardship exists. The Council shall by Ordinance define the circumstances wherein such deferments may be made.

The City Council does endorse the principal of deferment of special assessments for those citizens where the payment of said special assessments constitute a financial hardship. The Council, in accordance therewith, may defer the payment of a special assessment on homestead property owned by a person who has a financial hardship and the payment of the assessment would create a further financial hardship.

The deferment may be granted upon an application by the owner on a form prescribed by the County Auditor supplemented by the City Administrator to establish the qualification of the owner for said deferment. All deferments shall be subject to renewal each following year upon the filing of a similar application not later than August 15. The Council shall either grant or deny the deferment, and if it grants the deferment, the deferred assessment shall bear interest at the rate established in the Resolution adopting the assessment. If the Council grants the deferment, the Administrator shall notify the County Auditor who shall record a

notice of the deferment with the County Recorder setting forth the amount of the assessment.

A hardship shall be deemed prima facie to exist when all of the following apply:

- A. The applicant, his spouse and family combined shall not have an annual gross income in excess of the low income limits established by the Housing and Redevelopment Authority of the City of Brainerd in effect at the time of application. All data necessary to confirm applicant's income shall be furnished to the City Administrator.
- B. The total special assessments to be deferred exceed the sum specified in the most current Resolution adopted by the City Council setting this amount.
- C. The applicant certifies that the total assets of the applicant and spouse, exclusive of the homestead, do not exceed the sum specified in the most current Resolution adopted by the City Council setting this amount.
- D. The Crow Wing County Assessor's estimated market value of the applicant's homestead is less than the sum specified in the most current Resolution adopted by the City Council setting this amount.

Notwithstanding the foregoing provisions of this paragraph, the City Council may consider exceptional and unusual circumstances pertaining to an applicant not covered by the above standards; but any determination shall be made in a non-discriminatory manner and shall not give the applicant an unreasonable preference or advantage over other applicants.

The option to defer payment of special assessments shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the following events:

- A. The death of the owner when there is no spouse who is eligible for deferment;
- B. The sale, transfer, or subdivision of all or any part of the property;
- C. Loss of homestead status on the property;
- D. Determination by the Council for any reason that there would be no hardship to require immediate or partial payment; or
- E. Failure to file a renewal application within the time prescribed in this section.

## CHAPTER SIX

### PUBLIC UTILITIES COMMISSION

1. The Public Utilities Commission shall control, operate and manage the water works plant and business, and the electric light plant and business, and all other public utilities which are now or may hereafter be owned by and operated within said City.
2. Such commission shall upon the appointment and qualification of its members, and at such times as it may see fit organize and re-organize such commission, and in such organization and re-organization, shall appoint from its members a President and Vice-President and shall also appoint a Secretary who shall not be a member of the commission.
3. The Secretary of the commission shall attend all meetings of the Commission and keep a record of all proceedings. The Secretary shall be the collector of all moneys which may be due or coming to said Commission or the City, on account of water rentals, light rentals, power rentals and otherwise on account of water, light or power furnished. The Secretary shall be the bookkeeper of said commission and shall keep books fully showing the names of all patrons consumers of water, light and power, and the amounts from them severally due, also all moneys collected, from whom collected and the several amounts thereof; and also all purchases made by the Commission and all labor employed, and all money due and paid on account thereof. Said Secretary shall from day to day pay into the City Treasury all moneys so received, and shall receive from the City Treasury receipts therefor, which receipts shall be in duplicate, one copy of which shall be filed with the Commission and the other filed with the City Administrator. Said secretary shall at the end of each month, or within three days thereafter, make a report fully showing the receipts and disbursements during the last month, which report shall be in duplicate, one copy of which shall be filed with said commission and the other filed with the City Administrator.

The said Secretary shall give such bond as the board may require and approve, such bond to run to the City of Brainerd and to be conditioned that the Secretary will faithfully perform all the duties of the office as Secretary of the Public Utilities Commission, and that the Secretary will account for and pay over all money and property coming into the Secretary's possession. The Secretary shall perform such other and further duties as may be prescribed or directed by said Commission.

4. The Commission shall have power to appoint and employ all necessary help to properly perform its duties and to fix their compensation subject to the approval of the City Council as provided for in Section 109 of the City Charter.
5. Subject to state law, the Commission shall have power to fix all rates and compensation to be paid by consumers of water and electric light and power, and to make and enforce such rules, regulations and penalties as they may deem proper to affect such collections and to protect all property and rights pertaining to the said departments.

6. The Public Utilities Commission shall have power to institute, prosecute and defend, in the name of the City of Brainerd, all actions which they may deem proper to carry out and enforce their authority as such board; but no real estate or easement shall be acquired by purchase or condemnation proceedings; nor shall any water main be ordered or extended unless the City Council shall so order the same by a resolution passed by a majority vote of all its members.
7. The Commission shall, at the first meeting of the City Council, in December of each year, present a budget for the following year, which budget shall set forth all expenditures that can be anticipated for the operation of the commission, during said fiscal year, and when approved, in whole or such part as may be approved by the City Council, shall constitute the authority for such commission to make such expenditures. The commission shall have the power to purchase and pay for all supplies necessary for the management of said business, when so approved by the City Council either as a part of said budget or by resolution of the City Council authorizing same, except that the commission shall have the power to purchase supplies and machinery in case of sudden and extraordinary injury to said plants, making such purchases and contracts necessary to repair the same.
8. It is hereby made the duty of the Commission to furnish water to all private consumers, by water meter measurement so far as practicable, and so far as practicable to furnish electric light and power to all consumers by electric meters. And it is made the duty of the Commission to furnish and place reliable water and electric meters for the said purposes, which meters shall be the property of the City and shall be considered in the possession and under the control of the commission, but the Commission shall have power to charge the consumers such reasonable rent for the use of such meters as they may deem proper, which rental charge may be added to and made a part of the charges made for water and electricity.
9. All water rentals and electric light and power rentals, together with meter rentals which are not paid as due, are hereby made a charge against and lien upon the real estate for the use of which, or the occupants of which water and electricity is furnished; and it is made the duty of the Secretary of the Public Utilities Commission, on or before the first day of November of each year to furnish to and file with the Auditor of Crow Wing County, an itemized statement showing the amounts of such delinquencies and the property to be charged, and it shall be the duty of the County Auditor to extend the same upon the tax roll of the property as a tax and a charge against the property, and the same shall be collected by the County Treasurer as other taxes and paid to the City Administrator, who shall turn it into the water and light fund.

## CHAPTER SEVEN

### THE PARK AND RECREATION BOARD

1. The Park and Recreation Board shall have control and supervision of all parks, parkways, and boulevards within the City, and also of such streets and other public grounds as the City Council shall by proper resolution designate. It shall also establish the recreation policy and conduct and supervise recreation areas, facilities, services and programs for all types of public recreation. It shall have the authority to conduct activities and pay for the necessary supervision incidental thereto, on the grounds and properties owned, leased or controlled by the City of Brainerd, or on other properties with the consent of the owners or authorities who control the property. And it is made the duty of said Board to cause to be enforced all laws of the State and Ordinances and Resolutions of the City Council for the improvement, care and protection of the parks and other public property under its charge.
2. The said board shall organize by selecting a President and Vice-President from its members ~~and a Clerk, and a the~~ Clerk ~~who~~ shall keep a full record of all proceedings of said board, and ~~a Treasurer who~~ shall keep books showing all monies received and disbursed and the management of the business committed to said board.
3. ~~The said board shall establish the qualification for employment and shall have the authority to employ and determine the compensation of a trained and qualified Director of Parks and Recreation, and such other assistants, supervisors, playleaders, or other employees that may be necessary, in its judgment, for the efficient administration, conduct and development of the public recreation program, within the monies provided for such purposes by the City.~~ Said board shall have the power of coordination of services with other governmental programs, solicit and train volunteers, purchase supplies and equipment, develop and maintain facilities, procure or lease public or private properties, areas or facilities that may be required for programs, provided, however, that no property shall be procured by lease or otherwise for more than one year without the approval of the City Council. All expenditures shall be within the moneys appropriated by the City for such purposes, together with donations, gifts, bequests of any money, or any funds from earnings. All money received from donations, bequests or earnings shall be deposited in a special account managed by the board.
4. The board shall each year prior to September 1 prepare a budget for park and recreation purposes for the ensuing fiscal year; subject to the approval of the city Council.
5. The members of said board shall receive no compensation for their ~~services except that the clerk shall be paid such salary for his/her services as the board shall recommend and the City Council determine.~~

## **CHAPTER EIGHT**

### **PUBLIC LIBRARY BOARD**

1. The Library Board shall organize by appointing a President, Vice-President and Secretary from their number; such board shall have charge and supervision of the public library; together with all library buildings, grounds and other property pertaining to the public library, and shall have power to make and enforce such rules and regulations, as it may deem proper for the care, use, preservation and protection of all property. The City Council may pass all proper Ordinances for the care, preservation and protection of library property and provide for and enforce penalties for violation thereof.
2. The Secretary of the Library Board shall keep books of account fully showing all moneys received and disbursed and the purposes therefor, and the exact condition of said fund, and shall annually on or before the first Council meeting in may make a statement fully showing all the receipts and disbursements of said fund for the last year and the exact condition, which report shall be in duplicate, one copy of which shall be preserved in that office and the other copy filed with the City Administrator.
3. The general laws of the state with respect to the establishment and maintaining of public libraries are hereby made a part of this Charter, except so far as the same herein changed or modified.

**CHAPTER NINE**

**GENERAL PROVISIONS**

1. The City council may from time to time provide for the compilation and publication of the Ordinances of the City, and such resolutions as may be designated, and for the distribution or sale of copies of such compilation in its discretion, and may also provide for exchange of such printed compilations for similar publications for other cities.
2. All actions brought to recover any penalty or forfeiture under this act or the ordinances, resolutions, by-laws, or police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the City.
3. No penalty or judgment recovered in favor of the City shall be remitted or discharged, except by a vote of two-thirds of all the members of the City Council; but nothing in this section shall be so construed as to prohibit the judge of a court of jurisdiction from granting new trials or reversing any judgment rendered by the court according to the usual procedure of courts, nor to prohibit said court from suspending execution of sentence in its discretion.
4. No City officer, or employee of the City, shall sell, dispose of, or convert to the officer's own use, any City property in the officer's charge without special authority from the City Council.
5. That the Charter Commission of the City of Brainerd, as prescribed by state law, be composed of seven (7) members, each of whom shall be a qualified voter of the City of Brainerd.

Adopted by ordinance on June 21, 2021.

Ordinance published on \_\_\_\_\_.

Effective \_\_\_\_\_.