

**ORDINANCE  
NO. 1513**

**AN ORDINANCE AMENDING THE BRAINERD CITY CHARTER**

THE COUNCIL OF THE CITY OF BRAINERD DOES ORDAIN:

**SECTION ONE:** That Sections 4, 5, 7, 9, 10, 11, 12, 13, 15, 16, and 18B of Chapter Two: Officers and Elections are revised as shown.

CITY CHARTER - CHAPTER TWO  
OFFICERS AND ELECTIONS

SECTION 4: 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.

SECTION 5. 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.

SECTION 7. The City Administrator shall be chosen by the Council for an indefinite term solely on the basis of training, experience and administrative qualifications. At its first regular meeting in January of each odd-numbered year the Council shall, by majority vote, appoint the City Attorney, City Engineer and Building Inspector for two-year terms. At its first regular meeting in January of each year, the Council shall similarly appoint other officers for terms of one year. All terms shall commence at the time of appointment and continue until successors to the appointed offices are appointed and qualified.

SECTION 9. 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.

SECTION 10. 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.

SECTION 11. Any person shall not be eligible to any appointed office 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 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.

SECTION 12. 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 Board of Health, 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.

SECTION 13. 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.

SECTION 15. The compensation of all elective and appointive officers of the City shall be fixed by ordinance as permitted by State Statute.

SECTION 16. 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 Aldermen 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 on 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.

SECTION 18B. 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.

**SECTION TWO:** That Section 18C of Chapter Two: Officers and Elections be amended by striking the whole thereof.

**SECTION THREE:** That Section 18D and 18E of Chapter Two: Officers and Elections be revised as shown with added language underlined and deleted language ~~struck-out~~.

SECTION 18D. 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.

SECTION 18E. 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.

**SECTION FOUR:** That Section 27 of Chapter Two: Officers and Elections-Duties of City Officers be revised as shown.

#### DUTIES OF CITY OFFICERS

SECTION 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.

**SECTION FIVE:** That Section 32 of Chapter Two: Officers and Elections-Duties of City Council be revised as shown.

#### DUTIES OF THE CITY COUNCIL

SECTION 32. 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. It is the Council's duty to make all rules and, regulations providing for the use of a prison.

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.

**SECTION SIX:** That the first through thirty-fifth paragraphs shown in Section 32 of Chapter Two: Officers and Elections-Duties of City Council be amended by striking the whole thereof.

**SECTION SEVEN:** That Section 33 of Chapter Two: Officers and Elections-Duties of City Council be revised as shown.

SECTION 33. 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.

**SECTION EIGHT:** That Section 39 of Chapter Two: Officers and Elections-Duties of City Council be amended by striking the whole thereof.

**SECTION NINE:** That Section 42 of Chapter Three: Finances be revised as shown.

## CITY CHARTER – CHAPTER THREE

### FINANCES

SECTION 42. The fiscal year of the City shall be the calendar year.

**SECTION TEN:** That Section 46, No. 11 and Section 47 of Chapter Three: Finances be revised as shown.

SECTION 46. The City Council shall annually levy taxes to provide for the following specifically designated funds and the general fund:

No. (11). A PERMANENT IMPROVEMENT REVOLVING FUND. Except as provided in respect of other specific funds defined in this Section 46, or hereinafter otherwise declared in this particular subdivision there shall be paid into this fund all moneys received on special assessments heretofore or hereafter levied by the City for local improvements, and also all the proceeds of the sale of permanent improvement REVOLVING fund bonds. Out of this fund shall be paid, as they fall due, all permanent-improvement-revolving fund bonds and the installments on contracts for all such public improvements as are to be paid in whole or in part by assessments against property benefited thereby, except as hereinabove otherwise provided, and also excepting contracts for sewers, on which contracts for sewers payments shall be made in accordance with the provisions of Chapter 312, General Laws 1903, and amendments thereof. The City Council is authorized, in its discretion, to cause to be paved, re-paved or otherwise improved, any street or alley or any portion thereof in the City, or any gutter along side any street or alley, or any portion thereof, in such manner as it may direct. In the case of first paving or any other original or primary improvement, every lot or parcel of real property fronting or abutting thereon, and subject to special assessment for such improvement, shall be assessed for an amount equal to the cost of such first paving or other original or primary improvement on the same side of the street or alley to the center thereof: provided, that whenever the City Council shall deem any such first paving or other original or primary improvement to be generally beneficial to the public at large, the City Council may pay, or cause to be paid, thereon from the general fund an amount not exceeding twenty-five per cent (25%) of the cost and expense thereof, and assess the abutting property, as above defined, for the other seventy-five per cent (75%) or more of such cost and expense. In the case of repaving or other local improvement, of the kind hereinbefore mentioned, subsequent to the first, original or primary improvement of like character in any such street or alley, every lot or parcel of real property, then and there subject to special assessment for local improvements, fronting or abutting on any such re-paving or improvement subsequent to the first or original improvement of like character, laid or made on the same side of the street or alley, exclusive of street intersection, shall be assessed for an amount equal to two thirds of the cost thereof to the center of the street. All other expense or cost of such repaving or other local improvement subsequent to the first or original improvement, of the character above defined, shall be paid out of the permanent improvement fund, and in case of shortage in that fund the requisite sum shall be advanced and paid out of the general fund. To provide for the expense and cost of any such improvement, not payable out of the permanent improvement fund, the City Council shall, in due order, adopt special assessment rolls. The special assessments hereunder against abutting property shall be payable in ten (10) semi-annual installments, at times when general taxes become due and payable according to law, and commencing with the first payment of such general taxes immediately after the time of adoption of any such special assessment may pay the entire amount thereof, or any remaining portion, at any earlier time.

No interest shall be imposed upon any such special assessment until the first Monday in January next following actual commencement of the work of improvement, for which the

assessment shall have been adopted, where such work shall have been actually commenced subsequent to the first Monday in the next preceding month of July: and, in case any such work be actually commenced subsequent to the first Monday in January of any year, no interest shall be imposed upon the special assessment therefor until the first Monday in July of that year. Whenever, under such circumstances, the work on any such improvement shall have been actually commenced, it shall be the duty of the City Engineer, or other person superintending the work, to forthwith furnish the City Administrator with a statement in writing describing the particular work and showing such date of actual commencement thereof, and thereupon the city Administrator shall file with the County Auditor, and with the County Treasurer, respectively, the proper certificate of the City Administrator describing the particular improvement, specifying the rate of interest, and stating the date from which the same shall be computed, in accordance with the foregoing provisions. The County Treasurer shall collect such interest and pay the same over to the City Treasurer.

SECTION 47. 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 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 a Community Action Program. 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.

**SECTION ELEVEN:** That Section 50 of Chapter Three: Finances be amended by striking the whole thereof.

**SECTION TWELVE:** That Section 54-G and 54-H of Chapter Three: Finances be revised as shown.

SECTION 54-G. There shall be a levy of 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 hereafter, for the establishment and maintenance of a program for the benefit of senior citizens or to subsidized non-profit senior citizens organization. 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.

SECTION 54-H. There shall be a levy of 1/2 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. 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.

**SECTION THIRTEEN:** That Chapter Four: Police Department be amended by striking the whole thereof.

**SECTION FOURTEEN:** That Sections 63 and 64 of Chapter Five: Fire Department be amended by striking the whole thereof.

**SECTION FIFTEEN:** That Sections 89 and 90 of Chapter Six: Streets be amended by striking the whole thereof.

**SECTION SIXTEEN:** That Chapter Seven: Sewers be amended by striking the whole thereof.

**SECTION SEVENTEEN:** That Section 107 of Chapter Eight: Public Utilities Commission be revised as shown.

SECTION 107. 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.

**SECTION EIGHTEEN:** That Sections 123 and 129 of Chapter Eleven: General Provisions be amended by striking the whole thereof.

**SECTION NINETEEN:** Upon passage, this ordinance becomes effective 90 days after its publication.

Adopted this 21<sup>st</sup> day of December, 2020

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GABE JOHNSON  
President of the Council

Approved this 22<sup>nd</sup> day of December, 2020

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DAVE BADEAUX  
Mayor

ATTEST: \_\_\_\_\_  
JENNIFER BERGMAN  
City Administrator