

CITY CHARTER - CHAPTER TWO

OFFICERS AND ELECTIONS

"SECTION 3. The elective officers of the City shall be a Mayor and seven Aldermen. Of the seven Aldermen, 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 Aldermen shall be residents of their respective wards.

AMENDED 4/5/49-12/2/69-1/22/80-5/5/86

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 re-enacted. 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 general and special City elections, and when any such officers are absent or unable to act, the City Council shall, at least two weeks before an election, appoint officers in their stead. Election returns shall be made and results canvassed consistent with the general laws of the State of Minnesota pertaining to general elections.

AMENDED 4/5/49-1/4/83-12/17/12

SECTION 5. The term of office of every officer elected under this Charter, unless otherwise provided for, shall commence on the first secular day of January following the election and shall continue for a term of four years and until his or her successor is elected and qualified.

AMENDED 12/3/18-4/5/49-11/3/64-12/2/69-2/3/86

SECTION 6. The appointive officers of the City shall be a City Administrator, City Engineer, City Attorney, Chief of the Fire Department to be known as Fire Chief, Building Inspector, Public Utilities commission to consist of five(5)members, a Park and Recreation Board to consist of five(5) members, Board of Health to consist of three (3) 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.

AMENDED 1/4/83-5/6/85-5/5/86-7/5/88

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 and need not be a resident of the City of Brainerd at the time of appointment, but shall be a resident of the City of Brainerd within a reasonable time following appointment. 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.

AMENDED 11/3/64-5/5/86-7/5/88

SECTION 8. The members of the Public Utilities Commission, the Park and Recreation Board, the Health 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, one (1) member of the Health Board and three (3) members of the Library Board. The term of office for a member of the Health Board and 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.

AMENDED 1/4/83-5/6/85-11/4/86

SECTION 9. Any elective or appointive officer provided for by this Charter having entered upon the duties of the office may resign the same by and with the consent of the City council; provided, that any member of a board may resign with the consent of such board. Any elective or appointive officer changing residence from the City, or any Alderman from the ward for which elected or appointed, or any such officer who shall refuse or neglect to enter upon the discharge of the duties of the office for ten days after the beginning of the term for which elected or appointed to fill, shall be deemed to have vacated or abandoned such office.

SECTION 10. Every person appointed to any office by the City Council or Mayor or elected to any office by the people, may be removed from such office by a vote of two thirds of all the Aldermen authorized to be elected. But any officer elected by the people or 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 to the Aldermen, 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 Aldermen without leave, from three successive regular meetings of the Council, or a member of a board from the meeting of such board, or neglect of duty of any officer.

SECTION 11. Any person shall not be eligible to any office under this Charter who has ever been convicted of a felony or is not at the time of his election or 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, either by death, resignation, removal or failure of election, or failure to qualify, or otherwise, such vacancy shall be filled by the City Council in the manner provided for appointments by the City Council; except that then 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 elective officers so appointed shall hold their respective offices until the next regular City election, and all appointive officers so appointed shall hold office for the balance of the unexpired terms.

AMENDED 5/6/85

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 Administrator. 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.

AMENDED 11/2/54

SECTION 14. The Mayor and Aldermen holding office at the time this Charter takes effect, shall hold their respective offices until such offices are filled at the first City election held thereafter; and during such period the said continued Aldermen shall constitute the council.

On the day this Charter goes into effect at 8:00 p.m., the City Council and Mayor shall meet and appoint all the appointive officers provided for in this Charter, in the manner herein provided for appointing such officers, and such appointees shall hold their respective offices until the next regular time for appointing such officers, at which last named time all appointive offices shall be filled as provided in Section Ten of this Charter.

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

AMENDED 4/4/33-4/5/49

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 ex-officio a 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 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 partially 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, and the court shall have the power to add to the judgment of fine that the Mayor be removed from office.

SECTION 17. 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.

SECTION 18. 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 an Alderman 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.

AMENDED 11/2/54-7/5/88

SECTION 18A. 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:

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 percentum 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 Administrator; provided, that the petition shall contain a general statement of the ground for which the removal is sought.

SECTION 18C. The signatures to the petition need not all be appended to one paper, but each signer shall add the person's place of residence, giving the street and number. One of the signers to each such paper shall make oath before an officer competent to administer oaths, that the statements thereon made are true, and that each signature to the paper appended is the genuine signature of the person whose name purports to be thereunto subscribed. Within ten days from the date of said presentation of such petition, the City-Administrator shall examine and from the poll lists of the last regular municipal election ascertain whether or not said petition is signed by the requisite number of qualified electors, and if necessary, the Council shall allow extra help for that purpose, and the Administrator shall attach to said petition a certificate showing the result of said examination. If, by the Administrator's certificate, the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate. The Administrator, shall within ten days after such amendment, make like examination of the amended petition, and if the certificate shall

show the same to be insufficient it shall be returned to the person presenting the same without prejudice, however, to the presentation and filing of a new petition to the same effect.

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, not less than thirty days nor more than forty 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. The officer sought to be removed shall be deemed a candidate, and, unless the officer resigns the officer's name shall be printed on the ballot without nomination. The nomination of other candidates shall be the same as the nomination of candidates for any regular City election for the office of which the incumbent is sought to be removed. The officer sought to be removed shall continue in office until the canvass of the returns of such recall election by the Council, and if the incumbent fails at such election to receive the highest number of votes, the officer shall be deemed removed from office and the candidate at such election receiving the highest number of votes shall be deemed the successor in office for the unexpired term. Such successful candidate except the recalled officer, shall qualify within ten days thereafter or the said office shall be deemed vacant. Said recalled officer shall yield said office on demand to the successor.

SECTION 18F. 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.

SECTION 18G. 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 18A, 18B, 18C, 18D, 18E, and 18F.

SECTION 18H. Every amendment hereinbefore proposed shall take effect and be in force from and after the date of its adoption.

DUTIES OF THE CITY ATTORNEY

SECTION 19. 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, the Health 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.

AMENDED 5/6/85

DUTIES PERFORMED BY THE CITY ADMINISTRATOR

SECTION 20. It shall be the duty of the City Administrator to receive all monies belonging to the City, including taxes and revenues of the City, and shall keep an accurate account thereof. The City Administrator shall keep regular books of account of the said City and of all boards which shall show in detail the monies received and the monies disbursed and for what purpose disbursed. The City Administrator shall fully at all times show the precise financial condition of the City and of the several boards. The City Administrator shall keep a record showing all of the bonded indebtedness of the City and showing when the same and the interest thereon, and the amount of the interest, has been paid: and showing what orders and warrants have been paid by the City, and all of the disbursements thereof, together with the amounts thereof, the interest thereon, and the time of such payment.

All monies belonging to the City or to any of the boards thereof, shall be deposited by the City Administrator in a bank or banks designated by the City Council.

The City Council shall have the power to designate any bank or banks as the recipient and custodian of the funds of said City and of the said boards, and to fix and approve the bond of such bank or banks, and to make with such bank or banks such contracts as it deems proper for the payment of interest upon such deposit.

AMENDED 1/22/80

DUTIES OF THE CITY ENGINEER

SECTION 21. The City Engineer shall be a person qualified as a surveyor and civil engineer, and shall have supervision and general charge of all work done for the City and all work done on any sewers, street highways, alleys and other public grounds. The City Engineer shall direct the manner of performing all such work, and the construction and repairs of all paving, macadamizing, sidewalks, street crossings, bridges and other structures or improvements in and upon the streets, highways, alleys and other public grounds in the City, and may suspend any work or construction as shall not conform to the requirements of the City Council, and he shall see that the terms of all contracts for any work or construction on behalf of the City are fully complied with. The City Engineer shall, when directed by the City Council, or any property owner, make -surveys and fix boundary lines of all lots, blocks, streets, alleys and public grounds within the city, and the -grades of all streets, alleys and sidewalks, and shall place such monuments and stakes as will indicate and evidence the same, and shall keep in the City Engineer's office in books for that purpose true records and memorandums of all surveys, and shall make and file in this office plats fully showing all such surveys: all of which records and plats shall be the property of the City, and shall be turned over to the successor in office. Whenever the City Engineer shall perform such surveys for the public at large he shall receive the same compensation as is allowed by the statutes of Minnesota to county surveyors for like services, to be paid by the persons at whose request such services are rendered.

The City Council shall have the power to appoint the same person to act as both City Engineer and Street Commissioner, or City Engineer and Building Inspector, or for all of said offices.

DUTIES OF THE BUILDING INSPECTOR

SECTION 22. The Building Inspector shall be knowledgeable and trained as a building official or inspector: and shall enforce or cause to be enforced the laws of this state and the ordinances of the City relating to the construction and inspection of all buildings, structures and public utilities, and inspect sewers and plumbing, gas, chimneys, smoke stacks, steam pipes, elevators, boilers and ovens within the City. The Building Inspector shall have the right to enter into any building or structure between the rising and setting of the sun in the discharge of official duties; and shall have the power to inspect the plans and specifications for buildings and for the erection of heating, lighting, and ventilating apparatus, and to grant permits for the construction and alteration of buildings, and no building shall after the adoption of this Charter be erected, repaired or removed within the fire limits of the City without the permit first obtained from the Building Inspector, which permit shall be issued by the Building Inspector. Building permits are routinely issued by the Building Inspector. In the event an applicant for a building permit is in disagreement with the Building Inspector regarding the issuance or non-issuance of a permit, the applicant may appeal the decision to the city Council at its next regularly scheduled meeting. The Building Inspector shall perform such other duties and have such other rights for the public safety as the Council may fix by ordinance.

DUTIES OF CITY OFFICERS

SECTION 23. All City officers shall perform such other duties as may be directed by the City Council by Ordinances, Resolutions or otherwise.

SECTION 24. Every person having been an officer of the City shall upon the expiration of the officer's term of office deliver to the successor in office all property, papers, books and effects of every description in the officer's possession belonging to the City or pertaining to the office. If the officer fails to do so within five days after being notified and requested by the Mayor or President or Vice-President of the council or city Administrator, the officer shall forfeit and pay for the use of the City the sum of Five Hundred (\$500.00) Dollars, and all damages caused by the neglect or refusal so to deliver, which amount may be recovered by the City in an action brought for that purpose. The City may by an action in the nature of replevin or mandamus proceedings enforce the delivery and possession of such property, papers, books and effects.

SECTION 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.

SECTION 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.

SECTION 27. 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 28. All officers of the City having charge of any City property, shall at or before the last Council meeting in December of each year, and at such other times as the City Council may require, make and return to the City Council a full inventory of all public property in their hands or under their control, and shall with such inventory make an itemized statement of all property which has come into their possession since their last report. The inventory and report shall be filed with the City Administrator and kept open for public inspection, but need not be entered in the Council proceedings or published in the official newspaper unless the Council so directs.

DUTIES OF THE CITY COUNCIL

SECTION 29. The Aldermen 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 Aldermen 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.

SECTION 30. 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 Aldermen 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. In case the time for any regular, special or adjourned meeting of the City Council shall occur on a Sunday, a legal holiday or a day of general or special election, then in such case such meeting shall be deemed to be called and shall be held at the same hour on the next secular day.

SECTION 31. The City Council shall be the judges of the election and qualification of its own members and in such case shall have the power to send for such persons and papers. It shall determine the rules of its own proceedings and shall have the power to compel the attendance of absent members and may provide for the punishment of such absent members."

SECTION THIRTEEN: That Subsections First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Fourteenth, Fifteen, Sixteen, Seventeenth, Eighteenth, Nineteenth, Twentieth, Twenty-third, Twenty-sixth, Twenty-seventh, Thirty-first, Thirty-second, Thirty-third, Thirty-fourth, Thirty-fifth, Fortieth, Forty-first, Forty-second, Forty-fifth, Forty-sixth, Forty-eighth, Forty-ninth, Fiftieth and Fifty-first of Section 39 of Chapter Two of the Charter of the City of Brainerd be amended by striking the whole thereof and inserting in lieu thereof the following:

"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:

FIRST. To license and regulate the exhibitions of common showmen, and shows of all kinds and the exhibitions of caravans, menageries, circuses, concerts and theatrical performances, and places of amusement; also to license and regulate all auctions and auctioneers, pawn-brokers, dealers in second-hand goods, junk dealers, keepers of intelligence or employment offices, as well as all persons doing the business of seeking the employment for others, or procuring or furnishing employees for others: also to license and regulate legal gambling, billiard tables, nine or ten pin alleys, bowling alleys, shooting galleries, merry-go-rounds, taverns, victualling houses, and all persons vending, dealing in or disposing of spirituous, vinous, fermented, malt or intoxicating liquors, within said City. The license shall run for and continue in force during the period of one year from and after the date of the issue of such licenses, any general law of this state to the contrary notwithstanding. And also to license and regulate the selling or contracting for the sale of any goods, ware or merchandise at retail, by samples, when any such goods, wares or merchandise are thereafter to be sent or delivered to the purchaser.

SECOND. To restrain and prohibit all descriptions of illegal gambling and fraudulent devices and practices, and all playing of cards, dice and other games of chance, for the purpose of gambling in the City.

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: and to suppress disorderly houses and houses of ill-fame, and to provide for the arrest and punishment of the keepers, inmates or frequenters thereof, and to authorize the destruction of all instruments, implements or appliances used for the purpose of gaming.

FOURTH. To compel the owner or occupant of any cellar, privy, sewer, or other unwholesome or nauseous house or 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 the City.

FIFTH. To direct the location and management of stockyards, slaughterhouses and markets, breweries, distilleries, pawnbrokers, auctioneers, dealers in second-hand goods and junk dealers,

and to regulate and establish rates for and license venders of gun powder, dynamite, fireworks or other explosive or combustible material, and regulate the storage, keeping and conveying of all such materials, and regulate the use thereof in blasting or otherwise.

SIXTH. To prevent the encumbering of streets, sidewalks, alleys, lanes, public grounds or wharves, with vehicles of any kind or boxes, lumber, firewood, posts, awnings, signs or any other material or substances whatever.

SEVENTH. To regulate the movement and speed of railroad locomotives and cars, and to prevent them from obstructing the streets and public walks; to prevent and punish horse racing, immoderate riding or driving in the streets, highways and public grounds, to regulate the speed of and use of automobiles and other vehicles; and to regulate the places of swimming in the waters within the limits of said City.

EIGHTH. To restrain the running at large of animals, also poultry: and to authorize the distraining, impounding and sale of the same, and impose penalties on the owners of such animals or fowls for violation of the ordinances. When a sale of such animals or fowls shall be made, the proceeds thereof, after deducting the expenses of distraining, keeping, advertising and selling, shall be deposited in the office of the Treasurer of said City, for the use and benefit of the owner or owners thereof, if called for by such owner within one (1) year from the day of such sale.

NINTH. To restrict, restrain and regulate the running at large of dogs, and to require a license for keeping the same, and to authorize the destruction of the same, in a summary manner, when running at large contrary to any ordinance in relation thereto.

TENTH. To prevent any person from bringing, depositing or having within said 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 substance of 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, well, cisterns, hydrants, watering places and reservoirs, and to provide for and conduct water into and through the streets, avenues, alleys, and public grounds, and to provide for and control suitable water works for the supply of water to the City and its inhabitants; to erect lamps and create, alter and extend lamp districts, or to provide other means whereby to light the City, and to provide for and control suitable works for lighting the City streets, public grounds and public buildings, and furnishing light to the inhabitants of said City.

TWELFTH. To establish and regulate boards of health.

THIRTEENTH. To prevent all persons riding or driving any animal, or vehicle, on the sidewalks or public grounds or property in said city, or in any way doing any damage to such sidewalk, grounds or property.

FOURTEENTH. To prevent the shooting of firearms or crackers, and to prevent the exhibition of any fireworks or firearms 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 regulate and restrain porters, expressmen, hackmen, and also runners, agents and solicitors for boats, vessels, stages, cars, public houses and other establishments.

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

SEVENTEENTH. To establish public markets and market places, and other public places or buildings, and make rules and regulations for the government of the same; to appoint suitable officers for over-seeing 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, safekeeping, and dealing and traffic in gun-powder, gun-cotton, petroleum, kerosene, or other dangerous, explosive or inflammable oils or substances within said city, or within one mile of the corporate limits thereof, and to provide for the summary condemnation or destruction of any said article as may be kept, stored, dealt in, transported through or received in said City, contrary to such ordinances as said city Council may enact for the safety of life and property within said city.

NINETEENTH. To license and regulate shops and stands for the sale of game, poultry, butchers meats, butter, fish and other provisions, and also to license and regulate all peddlers, hucksters, hawkers and venders, doing business within said City.

TWENTIETH. To compel the owner or occupant of buildings or grounds within the City, to remove snow, ice, dirt or rubbish from the sidewalk, street or alley opposite thereto, and to compel the owner or occupant to remove from the lot owned or occupied by the person all such substances as the Board of Health shall direct, and in the person's default, to authorize the removal or destruction thereof by some officer of the City, at the expense of such owner or occupant. Also to compel the owners of low grounds where water is apt to collect and become stagnant, to fill or drain such low places, and in their default to authorize the removal or destruction thereof by some officer of the City, at the expense of such owner or owners.

TWENTY-FIRST. To regulate the time, manner and place of holding public auction and venues.

TWENTY-SECOND. To provide for watchmen, and to prescribe their number and duties and to regulate the same, and to prescribe the number of police officers and their duties, and to regulate the same.

TWENTY-THIRD. To appoint inspectors, and to regulate their duties and prescribe their compensation.

TWENTY-FOURTH. To direct and regulate the planting and preserving of ornamental trees in streets, alleys, and public grounds and highways of the City.

TWENTY-FIFTH. To remove and abate any nuisance, obstruction or encroachment upon the streets, alleys, public grounds and highways of the City.

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

A statement of such expense, specifying the lots or parcels of land upon which it was incurred, shall be filed by the City Administrator in the office of the Register of Deeds of Crow Wing County and the County Auditor, and shall thereupon become a lien in favor of the 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 months after such expense has been incurred by said City, and that 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 expenditures.

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 to make regulations to prevent the introduction of contagious disease, and to make quarantine laws and to enforce the same within the City. The jurisdiction of said City shall extend to and be in force over any lands within the county of Crow Wing, purchased or used by said City for the purpose of a quarantine. For police or sanitary regulations, and for the preservation of the health of the City and the suppression of disease and the abatement of public nuisances and the suppression of any business contrary to the sanitary regulations of the City Council or the Board of Health, the jurisdiction of the City shall extend for a circuit of one mile beyond the present or any future limits of the City.

TWENTY-EIGHTH. To regulate the opening of hatchways, stairways and other openings in sidewalks, and to compel proper guards about the same.

TWENTY-NINTH. To regulate the numbering of houses and lots, and to compel the owners of houses and other buildings to have the numbers of such houses or other buildings designated thereon.

THIRTIETH. To require the owner or lessee of any building or structure, now or hereafter built or constructed in the City to place fire escapes and other appliances for protection against and for the extinguishment of fires, as it may direct; and also to require such owner or lessee to construct, provide and furnish, each and every other thing, and to do each and every other act which it may think necessary or advisable to lessen the dangers to human life in case of fire or accident.

THIRTY-FIRST. To regulate and control or prohibit the placing of telegraph, telephone or other poles along or within the streets, alleys or public grounds of the City, and to regulate, control or prohibit the placing of wires along or upon any street, alley or public grounds of the City for the use of telegraph, telephone or other transmission of electricity, including the power to require and regulate the placing of such wires under ground within the said City or any portion thereof.

THIRTY-SECOND. To regulate the penning, herding and treatment of all animals within the City.

THIRTY-THIRD. 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-FOURTH. To fix the location and grade of all railway tracks, side tracks and spurs within the city, and to order and compel the same to be placed above or below streets and alleys crossing the same, and to require that railway companies keep gates or flagmen, or both, at street crossings, and to do such other acts as the Council may deem proper for public safety and convenience.

THIRTY-FIFTH. To grant or refuse to grant unto corporations, or persons operating or intending to operate telephone or telephone exchange business within the City, the right to use the streets, alleys and public grounds for the purpose of placing and maintaining poles and wires, and to fix such terms and conditions as to the City Council may seem proper, and to change the same from time to time; and also by fines and penalties to compel and enforce the observance of and compliance with all ordinances and Resolutions in such matters.

THIRTY-SIXTH. 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 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 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."

AMENDED 11/3/70-9/12/72-9/10/74-12/2/75-9/14/76-9/4/86

SECTION FOURTEEN: That Sections 40, 42, 43, 44, 45, 46, 47, 48 and 49 of Chapter Two of the Charter of the City of Brainerd be amended by striking the whole thereof and inserting in lieu thereof the following:

"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 34. 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.

AMENDED 12/19/83

SECTION 35. 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.

SECTION 36. 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.

SECTION 37. 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 Aldermen as were present when said vote was originally taken.

SECTION 38. The City Council shall examine, audit and adjust the accounts of all the City officers and agents of the City at such times as they deem proper, and also at the end of each fiscal year and before the term for which the officers of said City were elected or appointed shall expire. The City Council shall require and may compel by proceedings in court each and every such officer and agent to exhibit books, accounts and vouchers for such examination and settlement, and if any such officer or agent shall refuse to comply with the orders of the Council in the discharge of the officer's or agent's duties in the pursuance of this section, or shall neglect or refuse to render accounts or present books or vouchers to the City Council or a committee thereof, it shall be the duty of the City Council to declare the office of such person vacant. The City Council shall order suits and proceedings at law against any officer or agent of the City who may be found delinquent or defaulting in keeping accounts or in the discharge of official duties, and shall make a full record of all such settlements and adjustments.

SECTION 39. The City Council shall have the power to acquire by purchase or by condemnation proceedings such private property or such public or quasi-public property as it may deem necessary to be taken for the public use of the City or any of the departments or boards thereof, for sites of public buildings and grounds to be used therewith: for streets and alleys and for the opening, extending, widening or straightening of any such streets or alleys, for park parkways, boulevards and public squares, for the laying, constructing, extending, improving, repairing or changing of sewers and drains, for the erection, extending, changing, or improving, repairing and protecting of electric light lines and poles and wires, and other property and instrumentalities used in connection therewith: for the construction, erection, improvement and protection of a water works system and an electric light system or either thereof, together with the necessary and proper lands for the sources of water supply, buildings, reservoirs, stand pipes, pipe lines, pole lines and every purpose which may be deemed by the city Council proper and necessary for the supplying of electricity and pure water to the City and its inhabitants, including the right to acquire dam sites, water power and flowage rights, and all property necessary to full improvement and proper use of the same. The right of eminent domain shall extend to and cover all territory and property within the County of Crow Wing and within the County of Cass and all other territory within fifty miles of the City of Brainerd; provided, however, that no dam site or water shall be purchased or acquired by condemnation proceedings for the purpose aforementioned without being so authorized by an affirmative vote of a majority of the electors of the City who shall vote upon such question or questions at an election called or held for that purpose, which question may be submitted at a special or general election.

And providing further that the City shall have all the rights and powers of eminent domain which are vested in municipalities under the common law and under the general statutes of the State of Minnesota.

That in all cases where the City or any department or body thereof shall exercise the right of eminent domain the procedure thereunder shall be the same as provided by the general statutes of the State of Minnesota, in such matters.

SECTION 40. The City Council shall have the power to designate such of its own members as shall be selected for that purpose as a purchasing committee, and after the appointment of such committee no material or supplies for the City or any department thereof shall be purchased without the approval of such committee, and no bill for any such purpose shall be allowed by the Council until approved by such committee; provided, a majority of such purchasing committee shall control its actions; and provided further, that 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.

AMENDED 5/6/85

SECTION 41. Any license issued by the authority of the City Council may be revoked by the City Council at any time after proper notice and due process. A license shall be revoked upon conviction of the holders of such license before any court for a violation of the provisions of any ordinance or state law relating to the exercise of any right granted by such license; and the court ordering or rendering a judgment of conviction, may upon the first conviction, and shall upon the second conviction, revoke such a license in addition to the penalties provided by law or by Ordinance. If the City Council shall revoke any license without a conviction as above provided, then and in such case the City Council may refund to the license holder the unearned portion of the license money."

SECTION FIFTEEN: That Sections 50, 51, 52 and 53 of Chapter Three of the Charter of the City of Brainerd be amended by striking the whole thereof and inserting in lieu thereof the following: