

COUNCIL-MANAGER CHARTER

CITY OF

BEEMING, MINN.

ADOPTED

OCTOBER 7, 1952

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 24 1952

Mrs. Virginia Holm
11833

The Honorable Mayor and
The Honorable Members of the City Council
of the City of Bemidji, Minnesota

Gentlemen:

We, the members of the Charter Commission, duly appointed by the District Court of the Fifteenth Judicial District, herewith submit to you for submission to the electors of the City of Bemidji the following proposed amendment to the present city charter of the City of Bemidji, to-wit:

The Charter of the City of Bemidji adopted September 26, 1905, and amended December 10, 1941, is amended by striking out all of the provisions thereof and substituting therefor the following:

Dated this 5th day of August, 1952.

CHARTER COMMISSION

A. C. Clark, Chairman

Earl W. Bucklen

T. D. Duggan

Mrs. Edna Essler

J. A. Forester

Earl Grinols

A. D. Johnson

Marvin Krog

W. S. Lamont

Frank Markus

Mrs. Chas. Schroth

Earl Wild

A. D. Wilson

W. J. Wilson

11833
C.D.

CHARTER
OF THE
CITY OF BEMIDJI
BELTRAMI COUNTY, MINNESOTA

ARTICLE I

FORM OF GOVERNMENT, WARDS AND POWERS

1.01 Incorporation. The inhabitants of the City of Bemidji, Beltrami County, State of Minnesota, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the "City of Bemidji".

1.02 Wards. The city shall be divided into five wards as hereinafter designated; the number of wards shall not be increased except in accordance with the Laws of the State of Minnesota but, by resolution adopted by a four-fifths vote of the entire city council, the ward lines may be changed for the sole purpose of more nearly equalizing in number, one with another, the voting population of each and all wards.

1.03 First Ward. That portion of the city described as follows: Commencing at the intersection of Lake Bemidji and Fourth Street extended easterly, thence west along the center of Fourth Street to the intersection with the center of Beltrami Avenue, thence north along the center of Beltrami Avenue to the intersection with the center of Fifteenth Street, thence west along the center of Fifteenth Street to the intersection with the center of Irvine Avenue, thence north along the center of Irvine Avenue to the north boundary line of the city, thence east to the intersection with Lake Bemidji, thence southerly along the west shore of Lake Bemidji to the place of Beginning.

1.04 Second Ward. That portion of the city described as follows: Commencing at the intersection of the center of Fourth Street and Beltrami Avenue, thence west along the center of Fourth Street to the intersection with the center of Irvine Avenue, thence north along the center of Irvine Avenue to the intersection with the center of Fifteenth Street, thence east along the center of Fifteenth Street to the intersection with the center of Beltrami Avenue, thence south along the center of Beltrami Avenue to the place of beginning.

1.05 Third Ward. All of that portion of the city lying west of the center line of Irvine Avenue and north of the following described line: Commencing at the intersection of the center line of said Irvine Avenue and Fourth Street, thence west along the center line of Fourth Street to the intersection with the center line of the Soo Line Railroad right-of-way, thence northwesterly along the center line of said Soo Line right-of-way to the intersection with the west boundary line of said city.

1.06 Fourth Ward. That portion of the city lying south of the following described line: Commencing at the point of intersection with the center of Fourth Street extended easterly and the west shore of Lake Bemidji, thence west along the center line of said Fourth Street to the intersection with the center line of the Soo Line Railroad right-of-way, thence northwesterly along the center line of Soo Line right-of-way to the point of intersection with the west boundary line of said city, and west of the center line of Central Avenue in the plat of Nymore extended northerly to the intersection with the south shore of Lake Bemidji and extended southerly to the intersection with the center line of the Soo Line Railroad right-of-way, thence southeasterly along the center line of said right-of-way to the point of intersection with the city limits.

1.07 Fifth Ward. That portion of the city lying east of Lake Bemidji and east of the center line of Central Avenue in the plat of Nymore extended north to the intersection with the south shore of Lake Bemidji and extended south to the intersection, center line of the Soo Line Railroad right-of-way, thence southeasterly along the center line of said right-of-way to the point of intersection with the city limits.

1.08 Form of Government. The municipal government provided by this charter shall be known as the "Council-Manager Government". Pursuant to its provisions and subject only to the limitations imposed by the state constitution and by this charter, all powers of the City shall be vested in an elective council, hereinafter referred to as "the council", which shall enact local legislation, adopt budgets, determine policies, and appoint the city manager, who shall execute the laws and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

1.09 Powers of City. The city shall have all the powers granted to municipal corporations and to cities by the constitution and general laws of this state together with all the implied powers necessary to carry into execution all the powers granted. The city may acquire property within or without its corporate limits for any city purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require; and, except as prohibited by the constitution of this state or restricted by this charter, the city shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the city shall have and may exercise all powers which, under the constitution of this state, it would be competent for this charter specifically to enumerate.

ARTICLE II.

THE COUNCIL AND MAYOR

2.01 Number, Selection, term. The Council shall be composed of five councilmen who shall be qualified electors, and who shall be elected in the manner hereinafter provided. A mayor shall be elected at large, and shall serve for a term of two years and until his successor is elected and qualified. The five councilmen shall be elected one from each ward, and shall serve for a term of four years and until their successors are elected and qualified, except that at the first election held after the adoption of this charter, the three councilmen elected from the odd-numbered wards shall serve for four years, and the two councilmen elected from the even numbered wards shall serve for two years.

2.02 Salary. The mayor and members of the Council shall receive a salary of not to exceed \$100.00 per year; plus \$5.00 for each regular meeting of the Council attended by them, provided, however, that neither the mayor nor any councilman shall be paid for more than 24 meetings in any one year; and councilmen, when meeting as a board of equalization, shall receive not to exceed \$10.00 per day for actual attendance and services rendered, provided, however, that no councilman shall be paid for more than five days in any one year for such services. The Mayor shall receive not to exceed \$400.00 annually for contingent fund purposes for which he shall not be required to account to the Council.

2.03 Mayor. The mayor shall be the presiding officer of the Council, except that a president pro tempore shall be chosen from their number who shall serve as president in the Mayor's absence, and as acting mayor in case of the mayor's disability or absence from the city. The mayor shall not have a vote on the council, but the president pro tem, while serving as acting mayor, shall not lose his vote on the council. The mayor shall exercise all powers and perform all duties conferred and imposed upon him by this charter, the ordinances of the city, and the laws of the state. He shall be recognized as the official head of the city for all ceremonial purposes, by the courts for the purpose of serving civil processes, and by the governor for the purposes of the

martial law. In time of public danger or emergency he may with the consent of the council take command of the police, maintain order, and enforce the law. In the event of a vacancy in the office of mayor, whether by death, resignation, or any other cause, the council shall appoint a mayor to fill the vacancy for the unexpired term, but in the case of a recall the vacancy shall be filled in the manner provided by this charter.

2.04 Powers. All powers of the city and the determination of all matters of policy shall be vested in the council. Without limitation of the foregoing, the council shall have power to:

- (1) Appoint and remove the city manager;
- (2) Establish other administrative departments and distribute the work of divisions;
- (3) Adopt the budget of the city;
- (4) Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs;
- (5) Adopt plats;
- (6) Provide for an independent audit.

2.05 Appointment of City Manager. The council shall appoint an officer of the city who shall have the title of city manager and who shall have the powers and perform the duties in this charter provided. No councilman shall receive such appointment during the term for which he shall have been elected, nor within one year after the expiration of his term.

2.06 Removal of City Manager. The council shall appoint the city manager for an indefinite term and may remove him by a majority vote of its members. At least thirty days before such removal becomes effective, the council shall by a majority vote of its members adopt a preliminary resolution stating the reasons for his removal. The manager may reply in writing and may request a public hearing, which shall be held not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the council by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution the council may suspend the manager from duty, but shall in any case cause to be paid him forthwith any unpaid balance of his salary for the next two calendar months following adoption of the preliminary resolution.

2.07 Council not to interfere in Appointments or Removals. Neither the council nor any of its members shall dictate or direct the appointment of any person to, or his removal from, office by the city manager or by any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the city. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately.

2.08 Vacancies in Council. A vacancy in the council from any ward shall be deemed to exist in case of the failure of any person elected thereto to qualify on or before the date of the second regular meeting of the new council, or by reason of the death, resignation, removal from office, removal from the ward, continuous absence from the city for more than three months, or conviction of a felony of any such person whether before or after his qualification, or by reason of the failure of any councilman without good cause to perform any of the duties of membership in the council for a period of three months. In each such case the council shall by resolution declare such vacancy to exist, and shall forthwith call a special election in such ward to fill the same for the same for the unexpired term; provided, however, that if the vacancy occurs less than one year prior to the next regular municipal election, the council shall not call a special election, but shall fill the vacancy by appointment.

2.09 Creation of New Departments or Offices; Change of Duties.

The council by ordinance may create, change, and abolish offices, departments or agencies, other than the offices, departments and agencies established by this charter. The council by ordinance may assign additional functions or duties to offices, departments or agencies established by this charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this charter to a particular office, department or agency.

2.10 Induction of Council into Office; Meetings of Council.

The first meeting of each newly elected council for induction into office shall be held the first Tuesday after the first Monday in January following its election, after which the council shall meet regularly at least once each month at such time as may be prescribed by ordinance. The Mayor or any three members of the council may call special meetings of the council upon at least five hours notice to each member of the council. Such notice shall be delivered personally to each member or shall be left with some responsible person at the member's usual place of residence. All meetings of the council shall be open to the public.

2.11 Council to be Judge of Qualifications of its Members.

The Council shall be the Judge of the election and qualifications of its members and of the mayor, and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the council in any such case shall be subject to review by the courts.

2.12 Rules of Procedure: Journal. The council shall determine its own rules and order of business. A majority of all members of the council shall constitute a quorum to do business, but a less number may adjourn from time to time. The journal of its proceedings, kept by the city clerk, shall be open to public inspection.

2.13 Ordinances and Motions. Except as in this charter otherwise provided, all legislation and all appropriations of money shall be by ordinance, same that where an obligation has been incurred by ordinance, payment thereof may be ordered by motion, and save also that licenses may be granted and local improvements ordered, by motion, which said motions shall be decided only by roll call vote. Every final vote upon all ordinances, and upon all amendments thereto, shall be by ayes and nays, and the vote of each member shall be recorded in the minutes. The affirmative votes of at least 3 members shall be required for the passage of all ordinances and motions, except as otherwise provided in this charter.

2.14 Procedure on Ordinances. The enacting clause of all ordinances passed by the council shall be in the words, "The City of Bemidji does ordain". Every ordinance shall be presented in writing and copies presented to each councilman. Every ordinance, other than emergency ordinances, shall have three public readings in full, and at least one week shall elapse between each reading thereof. Every ordinance shall remain on file in the office of the clerk from the time it is introduced until the final vote thereon is taken. The final vote on each ordinance, other than an emergency ordinance, shall be taken at the meeting at which the third reading is had; any proposed ordinance may be amended at the first or second reading thereof by the same vote as that required to pass the ordinance, and at the third reading thereof, before the final vote thereon, by the unanimous vote of the council.

2.15 Emergency Ordinances. An emergency ordinance is an ordinance for the immediate preservation of the public peace, health, or safety, in which the emergency is defined or declared in a preamble thereto, separately voted upon, and agreed to by at least 4 members of the council as recorded by ayes and nays. An emergency ordinance must be in writing but may be enacted upon its first reading. No grant of any franchise shall be construed to be an emergency ordinance.

2.16 Signing and Publication of Ordinances and Resolutions.

Every Ordinance passed by the Council shall be presented to the Mayor by the City Clerk within 2 days after passage by the council. If he approves it, he shall sign the same, but if he disapproves it, he shall return it to the Council with his objections thereto, by depositing it with the City Clerk who shall present it to the Council at its next meeting; if the Council shall re-pass the same over the veto of the Mayor by an affirmative vote of not less than four of its members it shall have the same effect as if approved by the Mayor; and if the same shall not be returned by the Mayor on or before the fifth day (Sunday excepted) after it shall have been presented to him, it shall have the same force and effect as if approved by him. Every ordinance passed by the Council shall be filed with the City Clerk and by him recorded and preserved. Within 10 days after final passage and approval by the Mayor each ordinance shall be published at least once in the official newspaper in the city, and the Council may also provide for posting of same at the city hall and such other posting places within the city as it may prescribe.

2.17 When Ordinances Take Effect.

Ordinances making the annual tax levy, appropriation ordinances, ordinances pertaining to local improvements and assessments, and emergency ordinances shall take effect at the time indicated therein. Except as otherwise prescribed in this charter, all other ordinances passed by the council shall take effect at the time indicated therein, but not less than 20 days from the date of their passage. Ordinances adopted by vote of the electors shall take effect at the time indicated therein or, if no time be specified, then 20 days after their adoption. No ordinance making or amending a grant, renewal or extension of a franchise or other public privilege, shall be passed as an emergency by the council, except as defined in this charter, and it is the intention of this charter that such definitions shall be strictly construed by the Courts.

2.18 Amendment and Repeal of Ordinances.

Any Ordinance, or section thereof, may be amended or repealed by ordinance by reference to its title alone; and the original ordinance, or section or sections thereof, so amended shall thereupon be repealed.

2.19 Independent Annual Audit.

Prior to the end of each fiscal year the council shall designate certified public accountants, or the public examiner, who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government and shall submit their report to the council and to the city manager. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. They shall not maintain any accounts or records of the city business, but, within specifications approved by the council, shall post-audit the books and documents kept by the department of finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.

ARTICLE III

THE CITY MANAGER

3.01 The City Manager; Qualifications.

The city manager shall be chosen by the council solely on the basis of his character and his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the city or state, but during his tenure of office he shall reside within the city.

3.02 The City Manager; Powers and Duties. The city manager shall be the chief executive officer and the head of the administrative branch of the city government. He shall be responsible to the council for the proper administration of all affairs of the city and to that end, subject to the personnel provisions of this charter, he shall have power and shall be required to:

(1) Appoint and, when necessary for the good of the service, remove all officers and employees of the city except as otherwise provided by this charter and except as he may authorize the head of a department or office to appoint and remove subordinates in such department or office;

(2) Prepare the budget annually and submit it to the council and be responsible for its administration after adoption;

(3) Prepare and submit to the council as of the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year;

(4) Keep the council advised of the financial condition and future needs of the city and make such recommendations as may seem to him desirable;

(5) Compile the current expense estimates for the budget;

(6) Compile the capital estimates for the budget;

(7) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to ensure that budget appropriations are not exceeded;

(8) Maintain a general accounting system for the city government and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over each office, department and agency; keep separate accounts for the items of appropriation contained in the city budget, each of which account shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as he may deem expedient;

(9) Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the city government;

(10) Approve all proposed expenditures; unless he shall certify that there is an unencumbered balance of appropriation and available funds, no appropriation shall be encumbered and no expenditure shall be made;

(11) Prescribe the forms of receipts, vouchers, bills or claims to be used by all the offices, departments and agencies of the city government;

(12) Examine and approve all contracts, orders and other documents by which the city government incurs financial obligations, having previously ascertained that moneys have been appropriated and allotted and will be available when the obligations shall become due and payable.

(13) Audit and approve before payment all bills, invoices, payrolls and other evidences of claims, demands or charges against the city government and with the advice of the city attorney determine the regularity, legality and correctness of such claims, demands or charges;

(14) Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department or agency of the city government apart from or subsidiary to the accounts kept in his office;

(15) Establish and enforce specifications with respect to supplies, materials and equipment required by the city government;

(16) Countersign all checks issued by the city treasurer;

(17) Perform such other duties as may be prescribed by this charter or required of him by the council, not inconsistent with this charter.

3.03 Absence of City Manager. To perform his duties during his temporary absence or disability, the manager may designate by letter filed with the city clerk a qualified administrative officer of the city. In the event of failure of the manager to make such designation, the council may by resolution appoint an officer of the city to perform the duties of the manager until he shall return or his disability shall cease.

ARTICLE IV

BOARDS, COMMISSIONS AND PERSONNEL

4.01 Board of Health. The council shall by ordinance create a Board of Health in conformity with the requirements of the Laws of Minnesota. The members of the Board of Health shall be appointed by a majority vote of the council, and the council may, at its option, appoint two of its own members to such Board

4.02 Boards and Commissions. The council shall also have power by ordinance to create, and to appoint the members of such advisory boards and commissions as may be deemed necessary to advise and assist the council and the administrative officers of the City in matters relating to libraries, parks, city planning and such other affairs as the council may determine. The number of members and the terms of office of the members of such advisory boards and commissions shall be determined in the ordinance creating the same. Such boards and commissions may be given the power to administer oaths, and to compel the attendance of witnesses, and the production of books, papers and other documentary evidence.

4.03 Departments of Administration. The council may create such departments, divisions and bureaus for the administration of the City's affairs as may seem necessary, and from time to time alter the powers and organization of the same. It shall, in conjunction with the City Manager, prepare a complete administrative code for the City and enact the same in the form of an ordinance, which may be amended from time to time by ordinance.

4.04 Subordinate Officers. There shall be a City Clerk-Treasurer and such other officers subordinate to the City Manager as the Council may create by ordinance. The City Clerk-Treasurer shall be subject to the direction of the City Manager. He shall keep all papers and records of the City, except as otherwise provided in this Charter or by the administrative code; he shall attend all meetings of the Council in person or by his deputy and keep a record of all proceedings thereof. He shall perform the duties imposed by law upon City Clerks and City Treasurers, and such other duties as may be provided in the administrative code or required of him by the City Manager.

4.05 Appointments by City Manager. Subject to the provisions of this charter and any regulations consistent therewith which may be adopted by the council, the general laws of the State of Minnesota, and the ordinances of this City, the City Manager shall have the power and duty to appoint the City Clerk-Treasurer, and, except as herein provided, all heads of departments, all subordinate officers and employees in the departments; and all such appointments shall be made according to merit, fitness and character. He shall as herein-after provided have the power to remove any such appointee, provided that any permanent appointee shall have the right of an impartial hearing under such rules, regulations and conditions as the City Council shall provide by ordinance. Rules, regulations and conditions adopted by the Council relating to the removal of permanent subordinate officers and employees shall provide that such removal must be upon the basis of seniority and length of employment except where the removal is for good cause after public hearing before an impartial board established by the council. A permanent officer or employee for the purpose of this section is one who has served in his position for six months.

4.06 City Attorney. The City Manager shall appoint a City Attorney which said appointment must be confirmed by the City Council before it becomes effective. The City Council shall fix the compensation of such City Attorney. The appointment shall be made at the first regular meeting of the Council in each even numbered years or as soon thereafter as can be. The person so appointed shall be a legal resident of the City of Bemidji who has been admitted to practice law in the courts of the State of Minnesota. He shall be the chief legal adviser of all offices, departments and agencies and of all officers and employees in matters relating to their official powers and duties. He shall represent the City in all legal proceedings. It shall be his duty to perform all services incident to his position as may be required by statute, by this charter, or by ordinance.

4.07 City Assessor. The City Manager shall appoint a City Assessor which said appointment must be confirmed by the City Council before it becomes effective. The City Council shall fix the compensation of such Assessor. The appointment shall be made at the first regular meeting of the Council in August of each even numbered years. The Assessor shall qualify in the manner and form prescribed for him by law and shall be intrusted with all the duties required by the general laws of the State and the ordinances of this City.

ARTICLE V

BUDGET AND FINANCE

5.01 Fiscal Year. The fiscal year of the city government shall begin on the first day of January and shall end on the last day of December of each calendar year. Such fiscal year shall also constitute the budget and accounting year. As used in this charter, the term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

5.02 Preparation and submission of Budget. The city manager, at least 120 days prior to the beginning of each budget year, shall submit to the council a budget and an explanatory budget message in the form and with the contents provided by sections 5.12 and 5.13. For such purpose, at such date as he shall determine, he, or an officer designated by him, shall obtain from the head of each office, department or agency estimates of revenue and expenditure of that office, department or agency, detailed by organization units and character and object of expenditure, and such other supporting data as he may request; together with an estimate of all capital projects pending or which such department head believes should be undertaken (a) within

the budget year and (b) within the five next succeeding years. In preparing the budget, the City manager shall review the estimates and may revise the estimates, as he may deem advisable.

5.03 Budget a Public Record. The budget and budget message and all supporting schedules shall be a public record in the office of the city clerk open to public inspection by anyone. The city manager shall cause sufficient copies of the budget and budget message to be prepared for distribution to interested persons.

5.04 Publication of Notice of Public Hearing. At the meeting of the council at which the budget and budget message are submitted, the council shall determine the place and time of the public hearing on the budget, and shall cause to be published a notice of the place and time, not less than seven days after date of publication, at which the council will hold a public hearing.

5.05 Public Hearing on Budget. At the time and place so advertised, or at any time and place to which such public hearing shall from time to time be adjourned, the council shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard, for or against the estimates or any item thereof. During such public hearing the Council may insert new items or may increase or decrease the item of the budget except items in proposed expenditures fixed by law or prescribed by subsections (a), (b), (c), (d), (e), and (f) of section 5.23.

5.06 Date of final Adoption; Failure to Adopt. The budget shall be finally adopted not later than the first of October. Should the council take no final action on or prior to such day, the budget, as submitted, shall be deemed to have been finally adopted by the council.

5.07 Vote Required for Adoption. The budget shall be adopted by the favorable votes of at least a majority of all the members of the council.

5.08 Amendment of Budget. Following the final adoption of the budget as herein specified and prior to December 20, the Council may amend the budget after a public hearing thereon, the place and time of such public hearing to be published in the official newspaper of the city not less than five days prior to the date of such hearing. At such hearing the Council may amend the budget, but where it increases the total proposed expenditures it shall also increase the total anticipated revenues to at least equal such total proposed increased expenditures. After the budget has been adopted the Council may not vary the titles, descriptions, or conditions of administration specified in the budget except by amendment as herein provided for.

5.09 Effective Date of Budget; Certification; Copies Made Available. Upon final adoption, the budget shall be in effect for the budget year. A copy of the budget, as finally adopted, shall be certified by the city manager and city clerk and filed in the office of the city manager. The budget so certified shall be printed, mimeographed or otherwise reproduced, and sufficient copies thereof shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations.

5.10 Budget Establishes Appropriations. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

5.11 Budget Establishes Amount to be Raised by Property Tax; Certification to Taxing Authority. From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the city, in the corresponding tax year. The City Clerk shall transmit to the County Auditor annually, not later than the Tenth of October, a statement of all the taxes levied, and such taxes shall be collected and the payment

thereof be enforced with and in like manner as state and county taxes. No tax shall be invalid by reason of any informality in the manner of levying the same, nor because the amount levied shall exceed the amount required to be raised for the special purposes for which the same is levied, but in that case the surplus shall go into the fund to which such tax belongs.

5.12 Budget Message; Current Operations. The budget message submitted by the city manager to the council shall be explanatory of the budget, shall contain an outline of the proposed financial policies of the city for the budget year and shall describe in connection therewith the important features of the budget plan. It shall set forth the reasons for salient changes from the previous year in cost and revenue items and shall explain any major changes in financial policy.

5.13 Budget Message; Capital Improvements. As a part of the budget message, with relation to the proposed expenditures for down payments and other proposed expenditures for capital projects stated in the budget, the city manager shall include a statement of pending capital projects and proposed new capital projects, relating to the respective amounts proposed to be raised therefor by appropriations in the budget and the respective amounts, if any, proposed to be raised therefor by the issuance of bonds during the budget year.

5.14 Budget. The budget shall provide a complete financial plan for the budget year. It shall contain in tabular form:

- (a) A general summary;
- (b) Detailed estimates of all anticipated revenues;
- (c) All proposed expenditures;
- (d) Such reserves for specific purposes as the Council shall deem necessary.

The total of such anticipated revenues and reserves shall equal the total of such proposed expenditures.

5.15 Anticipated Revenues. Anticipated revenues shall be classified as "Surplus", "Miscellaneous Revenues", and "Amount to be raised by property tax"; miscellaneous revenues shall be sub-classified by sources and shall be estimated as prescribed in Sections 5.18 to 5.22 of this article.

5.16 Anticipated Revenues Compared with Other Years. In parallel columns opposite the several items of anticipated revenues there shall be placed the amount of each such item in the budget of the last completed fiscal year, the amounts of such items actually received during the year, the amount of each such item in the budget of the current fiscal year, and the amount actually received to the time of preparing the budget plus receipts for the remainder of the current fiscal year estimated as accurately as may be.

5.17 Surplus. Surplus shall include:

- (a) Revenue receipts made available by the lapsing of unencumbered appropriation balances at the beginning of the budget year;
- (b) Receipts from unanticipated miscellaneous revenues of the preceding fiscal year;
- (c) Receipts from anticipated miscellaneous revenues of the preceding fiscal year in excess of the estimates in the budget;
- (d) Receipts during the previous fiscal year from taxes or liens against which complete reserve has been established.

5.18 Miscellaneous Revenues. Miscellaneous revenues shall include anticipated revenues from the collection of taxes other than the general property tax; the amounts estimated to be received from services and sales, fines and forfeitures, special assessments and any other special or non-recurring sources.

5.19 Miscellaneous Revenues; Anticipated Surplus from Municipal Utility or Other Public Service Enterprise.

The anticipated revenues and proposed expenditures of each utility or other public service enterprise owned, or operated, by the city, shall be stated in a separate section of the budget (each bearing the name of the utility); and as to each such utility, an anticipated surplus, if legally available for general purposes, shall be stated as an item of miscellaneous revenue in the budget.

5.20 Miscellaneous Revenues; Measure of Estimates.

No miscellaneous revenue from any source shall be included as an anticipated revenue in the budget in an amount in excess of the average of the amount actually realized in cash from the same source in the next preceding fiscal year, and that actually realized in the first seven months of the current fiscal year plus that to be received in the remaining five months of the year estimated as accurately as may be, unless the city manager shall determine that the facts clearly warrant the expectation that such excess amount will actually be realized in cash during the budget year and shall certify such determination in writing to the council.

5.21 Miscellaneous Revenues; Receipts from Special Assessments.

Revenues from the collection of special assessments on property specially benefited shall not be stated in an amount which is in excess of the amount of the receipts so derived which it is estimated will be held in cash on the first day of the budget year.

5.22 Miscellaneous Revenues; From New Sources.

No revenue from a new source not previously stated in the budget shall be included unless the city manager shall determine that the facts clearly warrant the expectation that such revenue will be actually realized in cash during the budget year in the amount stated and shall certify such determination in writing to the council.

5.23 Proposed Expenditures. The proposed expenditures shall be itemized in such form and to such extent as shall be provided by law, and in the absence of such provision, by regulations established by ordinance. Separate provision shall be included in the budget for at least:

- (a) Interest, amortization and redemption charges on the public debt for which the faith and credit of the city is pledged;
- (b) Other statutory expenditures;
- (c) The payment of all judgments;
- (d) An amount equal to the aggregate of all special revenue notes which it is estimated will be outstanding at the end of the current year in anticipation of the collection of revenues other than the property tax;
- (e) An amount equal to the aggregate of all emergency notes which it is estimated will be outstanding at the end of the current year;
- (f) If the city is required to make up the deficit arising from the operations of utility or other public service enterprises, an amount equal to the deficit from such operations during the last completed fiscal year, separately stated for each utility or other public service enterprise which appears in a separate section of the budget;

- (g) Administration, operation and maintenance of each office, department or agency of the city itemized by character and object of expenditure;
- (h) Contingent expense in an amount not more than three per centum of the total amount, or the sum of \$10,000, whichever is the larger, stated pursuant to subsection (g) of this section;
- (i) Expenditures proposed for capital projects, including provisions for down payments on capital projects, as required by Section 5.25 of this charter.

5.24 Proposed Expenditures; Comparison with Other Years.

In parallel columns opposite the several items of proposed expenditures, there shall be placed the amount of each such item in the budget of the last completed fiscal year, the amount of such items actually expended during such year, the amount of each such item in the budget of the current year and the amount actually expended to the time of preparing the budget plus the expenditures for the remainder of the current fiscal year estimated as accurately as may be.

5.25 Down Payments on Capital Projects. Under the special caption of "down payments on capital projects", as provided in subsection (i) of section 5.23 of this charter, there shall be separately stated as to each capital project for which it is expected that bonds will be authorized during the budget year, a sum which is not less than five per centum of the amount of bonds to be authorized for that project. For purposes of the down payments, all street improvements expected to be partly financed by the issuance of bonds during the budget year may be considered a single project; so also may all proposed extensions of the water system, and likewise all extensions of the sewer system. Such an appropriation for a down payment shall not be required before the issuance of bonds to finance any capital expenditure which is the result of fire, flood or other disaster, or which is for a city owned, or operated, utility or other public service enterprise, or which is to be met in part, in cash, labor or materials, by any agency of the government of the United States of America, or of this state.

5.26 Budget Summary. At the head of the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax, and by departments and kinds of expenditures, in such a manner as to present to taxpayers a simple and clear summary of the detailed estimates of the budget.

5.27 Collection and Custody of Funds. The city treasurer shall:

- (1) Collect all taxes, special assessments, license fees and other revenues of the city or for whose collection the city is responsible, and receive all money receivable by the city from the county, state, or federal government, or from any court, or from any office, department or agency of the city;
- (2) Have custody of all public funds belonging to or under the control of the city, or any office, department or agency of the city government, and deposit all funds coming into his hands in such depositories as may be designated by the council, or, if no such designation be made, by the city manager, subject to the requirements of law as to surety and the payment of interest on deposits, but all such interest shall be the property of the city and shall be accounted for and credited to the proper account;

- (3) Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and notes for transfer, registration or exchange.

5.28 Work Programs; Allotments. Before the beginning of the budget year, the head of each office, department or agency shall submit to the city manager, when required by him, a work program for the year, which program shall show the requested allotments of the appropriations for such office, department or agency, by quarterly periods, or more frequently in the discretion of the city manager, for the entire budget year. The city manager shall review the requested allotments in the light of the work program of the office, department or agency concerned, and may revise, alter or change such allotments before approving the same. The aggregate of such allotments shall not exceed the total appropriation available to said office, department or agency for the budget year.

5.29 Allotments Constitute Basis of Expenditures and are subject to Revision.

The city manager shall authorize all expenditures for the offices, departments and agencies to be made from the appropriations on the basis of approved allotments and not otherwise. An approved allotment may be revised during the budget year in the same manner as the original allotment was made. If, at any time during the budget year, the city manager shall ascertain that the available income, plus balances, for the year will be less than the total appropriations, he shall reconsider the work programs and allotments of the several offices, departments and agencies and revise the allotments so as to forestall the making of expenditures in excess of the said income.

5.30 Transfers of Appropriations. The city manager may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department or agency. At the request of the city manager and within the last three months of the budget year, the council may by roll call motion transfer any unencumbered appropriation balance or portion thereof from one office, department or agency to another. No transfer shall be made from the appropriations required by subsections (a), (b), (c), (d), (e), and (f) of Section 5.23 of this charter.

5.31 When Contracts and Expenditures Prohibited.

No officer, department, or agency shall, during any budget year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, for any purpose, in excess of the amounts appropriated for that general classification of expenditure pursuant to this charter. Any contract, verbal or written, made in violation of this charter shall be null and void. Any officer or employee of the city who shall violate this section shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to hold his office or employment. Nothing in this section contained, however, shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law.

5.32 Appropriations Lapse at End of Year. All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered.

5.33 Fees shall be paid to City Government. All fees received by any officer or employee shall belong to the city government and shall be paid to the city treasurer as directed by the city council.

5.34 Purchases and Contracts. All purchases on behalf of the city shall be made, and all contracts let by the city manager. Approval must be given in advance by the City Council, whenever the amount of such purchase or contract exceeds five hundred dollars. All contracts, bonds, and instruments of every kind to which the city shall be a party shall be signed by the mayor on behalf of the city as well as by the city manager, and shall be executed in the name of the city.

5.35 Contracts. How Let. In all cases of work to be done by contract or of the purchase of personal property of any kind, where the amount involved is more than five hundred dollars, unless the council shall by an emergency ordinance otherwise provide, the city manager shall advertise for bids in such manner as may be designated by the council. Contracts of this magnitude shall be let to the lowest responsible bidder. The council may, however, reject any and all bids. Nothing contained in this section shall prevent the council from contracting by four-fifths vote for the doing of work with patented processes or from the purchasing of patented appliances by the same majority. Further regulations for the making of bids and the letting of contracts may be made by ordinance, subject to the provisions of this charter.

5.36 No Contract Executed Until Bond Ordinance Effective. No contract shall be executed for the acquisition of any property or the construction of any improvement or betterment to be financed by the issuance of bonds until the ordinance authorizing the issuance of such bonds shall have taken effect and any contract executed before such day shall be unenforceable in any court of law.

5.37 Emergency Appropriations. At any time in any budget year, the council may, pursuant to this section, make emergency appropriations to meet a pressing need for public expenditure, for other than a regular or recurring requirement, to protect the public health, safety or welfare. Such appropriation shall be adopted by the favorable votes of at least four-fifths of the members of the council, and shall be made only upon recommendation of the city manager. The total amount of all emergency appropriations made in any budget year shall not exceed three per centum of the total operating appropriations made in the budget for that year, or \$10,000.00, whichever is larger.

5.38 Borrowing to Meet Emergency Appropriations. In the absence of unappropriated available revenues to meet emergency appropriations under the provisions of section 5.37, the council may authorize the issuance of notes, each of which shall be designated "emergency note" and may be renewed from time to time, but all such notes of any fiscal year and any renewals thereof shall be paid not later than the last day of the fiscal year next succeeding the budget year in which the emergency appropriation was made.

5.39 Borrowing in Anticipation of Property Taxes. In any budget year, in anticipation of the collection of the property tax for such year, whether levied or to be levied in such year, the council may authorize the borrowing of money by the issuance of negotiable notes of the city, each of which shall be designated "tax anticipation note for the year 19__" (stating the budget year). Such notes may be issued for periods not exceeding one year and may be renewed from time to time for periods not exceeding one year, but together with renewals shall mature and be paid not later than the end of the third fiscal year after the budget year in which the original notes shall have been issued. The amount of the tax anticipation notes originally issued in any budget year shall not exceed fifty per centum of the amount of the property tax levied in that year for city purposes. On renewal of tax anticipation

notes of any given fiscal year, the amount renewed in the next succeeding fiscal year shall not exceed twenty per centum of the amount originally issued, and the amount renewed in the second fiscal year succeeding the year of levy shall not exceed four per centum of the amount originally issued.

5.40 Borrowing in Anticipation of Other Revenues.

In any budget year, in anticipation of the collection or receipt of other revenues of that budget year, the council may authorize the borrowing of money by the issuance of negotiable notes of the city, each of which shall be designated "special revenue note for the year 19__" (stating the budget year). Such notes may be renewed from time to time, but all such notes, together with the renewals, shall mature and be paid not later than the end of the fiscal year after the budget year in which the original notes shall have been issued.

5.41 Notes Redeemable prior to Maturity. No notes shall be made payable on demand, but any note may be made subject to redemption prior to maturity on such notice and at such time as may be stated in the note.

5.42 Sale of Notes; Report of Sale. All notes issued pursuant to this article may be sold at not less than par and accrued interest at private sale without previous advertisement by the city manager upon approval of the council.

5.43 Payment of Notes. The power and obligation of the city to pay any and all notes hereafter issued by it pursuant to this article shall be unlimited and the city shall levy ad valorem taxes on all the taxable property within the city for the payment of such notes and interest thereon without limitation of rate or amount. The faith and credit of the city is hereby pledged for the payment of the principal of and interest on all notes of the city hereafter issued pursuant to this article, whether or not such pledge be stated in the notes.

ARTICLE VI

BORROWING FOR CAPITAL IMPROVEMENTS

6.01 Definitions. As used in this charter: "Capital Project", or "Project" means: (a) Any physical public betterment or improvement and any preliminary studies and surveys relative thereto; (b) Any acquisition of property of a permanent nature; (c) The purchase of equipment for any public betterment or improvement when first erected or acquired.

"Pending", when applied to capital project, means authorized, but not yet completed.

6.02 Power to Incur Indebtedness by Issuing Bonds and Notes. The City may incur indebtedness by issuing its negotiable bonds, pursuant to this charter, to finance any capital project which it may lawfully construct or acquire. The bonded debt of the city shall not exceed such limits as now are or hereinafter may be provided by the general statutes of the State of Minnesota. No bonds shall be issued to pay current expenses or to refund certificates of indebtedness issued to cover temporary deficiencies in current expenses.

6.03 Bond Ordinance; Vote Required. The city shall authorize the issuance of bonds by a "Bond Ordinance" passed by the affirmative votes of at least a majority of all of the members of its council, as provided by this charter, and ratified by a majority of the electors of the city voting on such ordinances at a special referendum election or at a general election, whichever the council shall authorize. When two or more projects are combined in one ordinance, as provided in Section 6.06, the ballot shall be so prepared that the electors may vote separately on each project. Rejection by the voter of any one or more projects shall not invalidate the ordinance as to any project or projects that do receive the favorable vote of the electors.

6.04 Form and Content of Bond Ordinance. A bond ordinance shall contain in substance at least the following provisions:

(1) An appropriation of a sum of money for a capital project, described in brief and general terms sufficient for reasonable identification;

(2) To finance the said appropriation, an authorization of the incurring of indebtedness by the issuance of bonds in a stated amount, pursuant to this charter;

(3) A statement of the estimated maximum cost of the capital project, including any sums theretofore or thereby appropriated;

(4) A statement of the amount of the down payment appropriated in the budget of that year in anticipation of such bond issue;

(5) A determination of the period of usefulness of the project, within the limitations of section 6.19 of this charter;

(6) A determination of the net debt of the city after issuance of the bonds thereby authorized, together with a declaration that the bonds thereby authorized will be within all debt and other limitations prescribed by the constitution and laws of this state.

6.05 Title of Bond Ordinance; Citation. The title of a bond ordinance shall state the amount appropriated for an indicated project and the amount of bonds authorized to finance the appropriation. Bond ordinances shall be cited in bonds and notes by title and date of final passage.

6.06 Form and Content when Two or More Projects are combined. A bond ordinance may combine two or more projects, in which event it shall, for each project, establish a separate appropriation and state separately the estimated maximum costs and amounts of down payments, but shall authorize a single issue of bonds to finance the aggregate of the appropriations thereby made. The title of such bond ordinance may state the aggregate of the appropriations instead of the respective amounts.

6.07 Form and Content; Average Period of Usefulness. If a bond ordinance combines two or more projects, it shall, in addition to determining the respective periods of usefulness, determine the average period, taking into consideration the respective amounts of bonds for the several periods.

6.08 Procedure for Passage of Bond Ordinance; Publication After Final Passage. The procedure for passage of a bond ordinance shall be the same as that prescribed by sections 2.14, 2.15, 2.16, 2.17 and 6.03 of this charter for other ordinances of the city, except that when published after final passage, each bond ordinance shall be accompanied by a notice in substantially the following form:

NOTICE

The bond ordinance published herewith has been finally passed and the twenty-day period of limitation within

which a suit, action or proceeding questioning the validity of such ordinance can be commenced as provided in the city charter has begun to run from the date of the first publication of this notice.

City Clerk.

6.09 Effective Date of Bond Ordinance. Each bond ordinance shall take effect on the twenty-first day after its first valid publication after final passage.

6.10 No Bond Ordinance to be passed unless Appropriation made for down Payment.

No bond ordinance shall be passed unless it states separately for each purpose the amount of the "down payment" specifically appropriated to that purpose in the last previously adopted budget. The down payment shall be an available sum of money equal to at least five per centum of the amount of bonds authorized. For purposes of the down payment, all street improvements expected to be partly financed by the issuance of bonds during a single fiscal year may be considered a single project; so also may all extensions of the water system, and likewise all extensions of the sewer system.

6.11 Down Payment not Required in Certain Cases.

The provisions of section 6/10 shall not apply to a bond ordinance which authorized bonds solely to finance expenditures which are the result of fire, flood or other disaster.

6.12 Other Proceedings by Motion. All matters in connection with the authorization, sale and issuance of the bonds not specifically required to be provided in the bond ordinance may be determined or provided by subsequent motions passed by the affirmative vote of at least a majority of the members of the council.

6.13 Special Debt Statement. In connection with any bond ordinance and prior to the date of introduction thereof, the city manager shall prepare, swear to and file for public inspection in the office of the city clerk, a special debt statement which shall set forth (a) the aggregate principal amount of all outstanding bonds and notes of the city, (b) deductions permitted by the constitution and general laws, (c) the amount of existing net indebtedness, (d) the amount of the net indebtedness after the issuance of the bonds authorized by such bond ordinance and (e) the aggregate principal amount of bonds and notes which the city may issue, pursuant to law.

6.14 Special Debt Statement Presumed to be Accurate.

If the special debt statement provided for by section 6/13 of this article be filed pursuant to the said section and be approved by resolution of the council adopted prior to the final passage of the bond ordinance by the affirmative vote of at least a majority of all the members of the council, and be published with the bond ordinance after final passage thereof, such special debt statement shall be presumed to be accurate.

6.15 Legal Effect of Special Debt Statement.

After the issuance of any bonds or notes in reliance on a special debt statement made, filed, approved and published in accordance with the provisions of section 6.13 and 6/14 of this charter, the accuracy and sufficiency of such special debt statement shall not be contested in any suit, action or proceeding relating to the validity of such bonds and such bonds or notes shall be conclusively presumed to be within all debt or other limitations prescribed by this charter or any law of this state.

6.16 All Bonds Paid in Annual Installments. All bonds issued pursuant to this charter shall be payable serially in annual installments no one of which shall be more than two and one-half times the amount of the smallest prior installment.

6.17 First Annual Installment. The first annual installment shall be paid not more than two years after the date of final passage of the bond ordinance by virtue of which they are issued.

6.18 Last Annual Installment. The last annual installment of each authorized issue of bonds shall be paid not later than the date of expiration of the period of usefulness of the project for the financing of which such bonds are issued, or of the average period of two or more combined projects, as determined in the bond ordinance authorizing the issuance of the bonds, but in no case shall bonds be issued to run for more than 20 years.

6.19 Period of Usefulness Computed From Date of Passage. The period of usefulness of each project, and the average period in the case of two or more projects combined in one authorized issue, shall be computed from the date of final passage of the bond ordinance by virtue of which the bonds are issued.

6.20 Determination of Period of Usefulness. Within the foregoing maximum periods, bonds shall mature not later than the expiration of the period of the probable usefulness of the capital project for which they are issued, as determined by certificate of the engineer or architect, approved by the city manager, and stated in the bond ordinance.

6.21 Determination of Council Conclusive. The determination of the Council, in the bond ordinance, as to the classification of the projects for which bonds are authorized and as to the period of usefulness or average period, shall be conclusive in any action or proceeding involving the validity of the bonds.

6.22 Sale. All bonds issued under this charter shall be sold in accordance with the provisions of the laws of the state of Minnesota.

6.23 Short Period of Limitations. When twenty days shall have elapsed after the publication after final passage of a bond ordinance as provided by this charter, (a) any recitals or statements of fact contained in such bond ordinance, or in the preambles or recitals thereof, shall be deemed to be true for the purpose of determining the validity of the bonds thereby authorized and the city and all others interested shall forever thereafter be estopped from denying the same, (b) such bond ordinance shall be conclusively presumed to have been duly and regularly passed by the city and to comply with the provisions of this charter and of all laws, and (c) the validity of such bond ordinance shall not thereafter be questioned by either a party plaintiff or a party defendant, except in a suit, action or proceeding commenced prior to the expiration of such twenty days.

6.24 Payment of Bonds and Notes. The power and obligation of the city to pay any and all bonds and notes hereafter issued by it pursuant to this charter shall be unlimited and the city shall levy taxes upon all the taxable property within the city for the payment of such bonds or notes and interest thereon, without limitation of rate or amount, and in accordance with the laws of the state of Minnesota and the provisions of this charter. The faith and credit of the city is hereby pledged for the payment of the principal of and the interest on all bonds and notes of the city hereafter issued pursuant to this charter, whether or not such pledge be stated in the bonds or notes, or in the bond ordinance authorizing their issuance.

ARTICLE VII

PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS

7.01 The City Plan. The city council shall, with the assistance of the city manager and, if desired, of an advisory city planning commission, prepare and adopt a complete plan for the future physical development of the city. Such plan may be altered from time to time. It may include provisions for zoning, for the platting and development of new areas, for the planning and location of public works of art, public buildings, parks, playgrounds, harbor, bridges, transportation lines, and other public facilities, and for the laying out, grading and improving of streets and public places, as well as for all other matters which may seem essential to such a plan.

7.02 Enforcement of City Plan. The council shall have all necessary power, acting through the city manager, to enforce complete adherence by all persons to the plan adopted as provided above. The city manager shall report to the council all departure from the city plan by individuals or corporations.

7.03 Power to Make Improvements and Levy Assessments. The City of Bemidji shall have the power to make any and all types of public improvement not forbidden by the laws of this state and to levy special assessments for all such improvements of a local character. The amounts assessed to benefited property to pay for local improvements may equal the cost of the improvement, with interest until paid, but shall in no case exceed the value of the benefits received by such property.

7.04 Local Improvements. After the effective date of this charter, all local improvements shall continue for the time being to be made under the laws previously applicable. The Council shall prepare and adopt a comprehensive ordinance, prescribing the procedure which shall thereafter be followed in making local improvements and levying assessments therefor, and after its adoption such ordinance shall supersede all other provisions of the law on the same subject and may be amended only by an affirmative vote of four-fifths of the members of the council. Such ordinance shall provide for such notice and hearing in the ordering of improvements and the making of assessments therefor as are necessary to meet the constitutional requirements.

7.05 Public Works. How Performed. Public works, including all local improvements, may be constructed, extended, repaired, and maintained either directly by day labor or by contract. The city shall require contractors to give bonds for the protection of the city, the employees, and material men.

ARTICLE VIII

ACQUISITION OF PROPERTY

8.01 Power to Acquire Property. The city of Bemidji is hereby empowered to acquire, by purchase, by gift, devise, or condemnation, any property, corporeal or incorporeal, either within or without its corporate boundaries, which may be needed by said city for any public use or purpose. In addition to the power to acquire property for other public purposes, the city may also acquire, as herein provided, any gas, water, heat, power, light, telephone, or other plant, or other public utility, but no proceedings to acquire any such public utility shall be consummated unless authorized and approved by a vote of the people by a three-fifths vote of those voting at the election wherein the proposition shall have been submitted to the electors. Easements for slopes, fills, sewers, building lines, poles, wires, pipes, and conduits for water,

gas, heat, and power, and for other public purposes, may be acquired by gift, devise, purchase, or condemnation in the manner provided by law.

8.02 Proceedings in Taking Property. The necessity for the taking of any property by the city shall be determined by the council and shall be declared by ordinance which shall describe such property as nearly as may be and state the use to which it is to be devoted. The acquisition of such property may be accomplished by proceedings at law, as in taking land for public use by right of eminent domain according to the laws of this state, except as otherwise provided in this charter.

8.03 Payment of Award. Whenever an award of damages shall be confirmed in any proceeding for the taking of property under this chapter, or whenever the court shall render final judgment in any appeal from any such award, and the time for abandoning such proceedings by the city shall have expired, the city shall be bound to, and shall, within sixty days of such final determination, pay the amount of the award with interest thereon at the rate provided by law from the date of the confirmation of the award or judgment of the court, as the case may be; and if not so paid, judgment therefor may be had against the city.

8.04 City May Abandon Proceedings. The city may, by motion of the council at any stage of the condemnation proceedings, or at any time within thirty days after any commissioners appointed by the court hereunder shall have filed their report with the clerk of court, or in case of an appeal to the district or supreme court within thirty days after final determination thereof, abandon such proceedings as to all or any parcel of the property sought to be acquired and shall pay all costs thereof.

8.05 City May Take Entire Plant. In case the city shall condemn a public utility which is operated at the time of the commencement of condemnation proceedings as one property or one system, it shall not be necessary in such condemnation proceedings or any of the proceedings of the council, to describe or treat separately the different kinds of property composing such system, but all of the property, lands, articles, franchises, and rights which enter into and go to make up such system may, unless otherwise ordered by the court, be treated together as constituting one property and an award for the whole property in one lump sum may be made by the commissioners on condemnation or other body assessing the damages. But this shall not prevent the city, in cases where the plant and property is separable into distinct parts, from taking only such part or parts thereof as may be necessary in the public interests. The award shall fairly compensate the owner of the property condemned for all damages resulting to the owner from such condemnation.

ARTICLE IX

PUBLIC UTILITIES

9.01 Definitions As used in this charter unless the context clearly requires some other meaning:

(1) "Franchise" shall be construed to mean any special privilege granted to any person, co-partnership or corporation, in, over, upon, or under any of the highways or public places of the City, whether special privilege has heretofore been granted by it or by the State of Minnesota, or shall hereafter be granted by the city or by the State of Minnesota.

(2) "Cost of Service" means all reasonable and necessary expenses, taxes and other proper charges, and a reasonable return upon the net capital investment.

(3) "Net Capital Investment" means the actual and reasonable cost of all properties and capital outlay used and useful for service within the city, less accrued depreciation as determined by regular accounting procedure, approved by the City Council, plus working capital necessarily supplied by the investors, applicable to operation within the city.

(4) "Reproduction Cost Appraisal" means the reproduction cost less depreciation of all used and useful property, as determined by a physical appraisal, plus working capital necessarily supplied by the investors. In determining reproduction cost, appropriate unit prices shall be established for each class of property in accordance with proper inventory of the properties. Reasonable allowances shall be made for normal general construction overhead costs not included in the unit prices. The depreciation deduction shall include both physical and functional factors, and shall take due account of the differences between the existing property units and available modern units, including the difference in maintenance between existing and available new units. No additional allowances shall be made for franchise value, going concern value, or other intangible items not representing the actual unrecovered capital expenditures.

9.02 Granting of Franchises.

A. The city shall have power to grant a franchise to any private corporation for the use of streets and other public places in the furnishing of any public utility service to the city and to its inhabitants. All franchises and any renewals, extensions and amendments thereto shall be granted only by ordinance adopted by a 4/5 vote of the council, but in no case shall a franchise be granted by an emergency ordinance. A proposed franchise ordinance shall be submitted to the city manager, and he shall render to the council a written report containing recommendations thereon.

B. No perpetual franchise shall ever be granted, nor shall any franchise be granted for a longer term than 20 years.

9.03 Conditions and Transfer of Franchises.

A. Every franchise or renewal, extension or amendment of a franchise hereafter granted shall:

(1) Impose upon the utility the duty to furnish proper service at minimum attainable cost under proper organization and efficient management. The city shall have the right to require such extensions, additions, improvements and replacements of property as will result in economy or improvement in service, and it may issue such orders with respect to safety and other matters as may be necessary or desirable for the community.

(2) Fix the maximum rates to be charged by the utility for the different classes of service and reserve to the city the power to revise such rates at the end of each five-year period. Such rates shall be sufficient to cover the cost of service as defined in section 9.01 of this article.

(3) Reserve to the city the right at any time to apply to any court of competent jurisdiction for the cancellation of any franchise on the grounds of any substantial violation of the terms and provisions of such franchise; with such franchise providing an agreement on the part of the utility consenting to the jurisdiction of such court therefor.

B. No franchise shall be transferred hereafter by any utility to another without the approval of the city, and as a condition to such approval all the terms and conditions of this article shall be included in the transferred franchise.

9.04 Rate Base; Valuation Board. If net capital investment is not accepted as the rate base both by the city and the utility, the city's agency for public utilities, referred to in section 9.06 of this article, or the city manager, if he be so designated, to act in lieu of a separate agency, shall negotiate with such utility for the purpose of establishing a rate base considered fair and reasonable by such city agency and the utility. Adequate technical assistance shall be made available to the agency, or city, manager. The result, if any, of such negotiation shall be submitted to the council for approval. The council, either at the agency's recommendation or manager's recommendation, or on its own motion, may have a reproduction cost appraisal, as defined in section 9.01 of this article, made as an aid in negotiating a fair rate base. If no agreement between the council and the utility is reached in a reasonable period of time, the council may enter into an agreement with the utility to submit the question of rate base to arbitration by a valuation board consisting of three members. One member shall be appointed by the utility, one by the council (who may be the city manager), and the third by the preceding two. The third shall be a person of recognized training and experience in public utility valuations and shall be known to be fair to both public and private interests. If the two members cannot agree upon the selection of the third member, the third member shall be appointed by the judges of the judicial district in which the City of Bemidji is located. Adequate technical assistance shall be available to the Board, and a separate set-up of unit prices, general construction overhead and depreciation shall be prepared on behalf of the city, if considered desirable by the city's member, the city's utility agency, the city manager, or the council. The Board's findings shall be final and binding upon the city and utility.

9.05 Rates, Annual Cost of Service. The rates of every privately owned public utility exercising a franchise granted pursuant to the terms of this charter may be regulated and revised every five years. The City Council may, by ordinance, prescribe the method of exercising the power of such regulation, and such ordinance shall contain adequate provisions giving the utility notice of the proposed regulation and an opportunity to be heard. Any regulation of rates shall provide for reasonable rates depending upon the cost of service and the rate base, as provided in this charter, and shall be subject to review by a court of competent jurisdiction.

9.06 Records and Proceedings. The Council may establish or designate an agency of the City government, which agency may be the City Manager, which shall assemble the facts which are essential to proper determination of cost of service and the fixing of reasonable rates. Such agency may prepare and keep up to date an inventory of the property used and useful in public service, the cost of such properties as actually and reasonably incurred or as fixed by appraisal, additions and retirements made each year, the depreciation, and all matters that enter into a periodical adjustment or determination of the rate base. It shall have power to make all inspections and examinations of public utility properties, accounts, and records, necessary or appropriate to carry out the provisions of this charter. It may make such reports and recommendations to the Council, as it sees fit from time to time, or as may be requested by the City Council. Every public utility operating within the City shall make available at all reasonable times its books and records for inspection by such agency of the City. Every such public utility shall also make such reports as to capital outlay, property retirements, operating revenues, operating expenses, taxes and other accounting matters as appear from the books of such utility, and as may be requested from time to time by such agency.

9.07 Recapture. The City shall have power to purchase the properties of a privately owned public utility, and may include in such purchase, properties located outside as well as within the City. The purchase price shall not exceed the net capital investment, or the rate base, established as herein provided, unless a different purchase price shall be mutually agreed to by the City and the utility. The City may also condemn any public utility properties pursuant to the general condemnation provisions of this charter. The cost of proceedings for acquisition of private properties by condemnation shall be paid in the first instance by the private utility, but shall be included in the price or award paid by the City.

9.08 Establishment of Municipally Owned and Operated Utilities. The City shall have power to own and operate any public utility, to construct and install all facilities that are reasonably needed, and to lease or purchase any existing utility properties used and useful in public service. The city may also furnish service in adjacent and near-by communities which may be conveniently and economically served by the municipally owned and operated utility, subject to agreements with such communities and subject to provisions of state law. Council may provide by ordinance for the establishment of such utility, but an ordinance providing for a newly owned and operated utility shall be enacted only after such hearings and procedure as required herein for the granting of a franchise, and shall also be submitted to and approved at a popular referendum; provided, however, that an ordinance providing for any extension, enlargement, or improvement of an existing utility may be enacted as a matter of general municipal administration.

9.09 Competition with Privately Owned and Operated Utilities. If a municipally owned and operated utility would cover service areas already supplied by a privately owned and operated utility, the city shall make every reasonable effort to purchase or lease the existing properties that are used and useful before undertaking any duplication of properties or service. If the properties of an existing privately owned and operated utility cannot be acquired at a reasonable purchase price on the basis defined and provided for in section 9.07 of this article, the city may proceed with an independent and competitive municipally owned and operated utility. The city shall, however, take over such competitive private properties when a reasonable purchase price as heretofore defined shall be acceptable to the private owners, provided that if the city has already incurred duplicating costs of construction, such cost shall be deducted from the purchase price which otherwise would be properly paid.

9.10 Municipal Utility Organizations.

(a) The council may provide for the establishment of a separate department to administer the utility function; including the regulation of privately owned and operated utilities and the operation of municipally owned utilities. Such department shall remain under the supervision of the city manager; and he shall keep separate financial and accounting records for each municipally owned and operated utility and prior to the first day of February of each fiscal year shall prepare for the city council a comprehensive report of each utility.

(b) The city manager shall endeavor to make each utility financially self-sustaining, unless the council shall by ordinance adopt a different policy.

9.11 Financial Provisions. The city may finance the acquisition of privately owned utility properties, the purchase of land, and the cost of all construction and property installation for utility purposes by borrowing, in accordance with the provisions of Article VI of this charter. Appropriate provisions shall be made, however, for the amortization and retirement of all bonds within a maximum period of twenty years. Such amortization and retirement may be effected through the use of depreciations funds or other financial resources provided through the earnings of the utility.

9.12 Financing Certain Utilities. The Council shall have power to provide funds necessary for the acquisition, construction, improvement, extension and repair of the sanitary sewer and sewerage treatment system, of the garbage and waste collection and disposal system and of the waterworks system of the City or of any combination of such systems by the issuance of bonds payable solely from the net revenues of any one of such systems or a combination of two or more of such systems and the city shall be expressly relieved by the terms of such bonds from any obligation to levy, collect, use or apply any taxes or moneys received from taxation to the payment of either principal or interest on such revenue bonds except for the payment of services rendered to or health or other benefits received by the City as a whole or any of its departments and except as to moneys received from special assessments levied for local improvements by reason of the construction, improvement, extension and repair of any such systems. Such bonds shall be authorized only by ordinance, which ordinance shall fix the maximum amount of revenue bonds thereby authorized; describe in general terms the purpose or purposes for which they are issued; shall contain covenants determining what shall constitute net revenues and whether the net revenues of one or more of such systems shall be pledged; and may contain such other provisions as the council may deem necessary. Such revenue bonds shall bear interest at not to exceed 5% per annum, payable semi-annually, shall mature at such time or times not exceeding 20 years and shall be in such form and be sold or negotiated with or without notice at not less than their par value under such terms as the Council shall determine. The Council shall have the power and it shall be its duty to fix and maintain rates for services and benefits to properly operate and maintain such system or systems and which, together with the collection of any assessments for local improvements, shall be adequate to pay principal and interest on any revenue bonds issued hereunder. Rates to be charged for all services, materials, labor and benefits furnished by any one of such systems or combination of such systems, including charges made for services rendered to or health or other benefits received by the City as a whole or any of its departments, and rules and regulations necessary to properly regulate furnishing such services, materials, labor and benefits

and secure and enforce payment of bills shall be established or changed only by ordinance. The council shall have power by ordinance to issue refunding revenue bonds to refund outstanding revenue bonds whenever moneys from the net revenues pledged are insufficient to meet any maturing revenue bonds or interest or at the optional or callable dates of such revenue bonds and each issue of refunding revenue bonds shall constitute the same charge or lien on the net revenues of such systems as did the bonds refunded. The provisions of this section shall be deemed additional to and separate from the provisions of Article V and Article VI of this charter. The provisions of Section 6.03 shall apply to any ordinance adopted under this section.

ARTICLE X

COMMITTEES AND ELECTIONS

10.01 The Regular Municipal Election. A regular municipal election shall be held the first Tuesday after the first Monday in December and bi-annually thereafter at such place or places as the City Council may designate. Each ward shall constitute at least one election district, and additional election districts may be established, and the boundaries thereof subsequently changed in the manner provided by law. At least fifteen days before the election, notice of the time and place thereof and of the officers to be elected shall be given by the City Clerk by publishing the same at least once in the official newspaper of the city and by posting a notice thereof in at least one public place in each election district. At the regular election there shall be elected, in addition to the officers of the city, such judicial officers as may be provided by law.

10.02 Special Elections. The council may by motion order a special election, fix the time of holding the same, and provide all means for holding such special election. The procedure at such election shall conform as nearly as possible to that herein provided for other municipal elections.

10.03 Judges and Clerks of Election. At least ten days before each municipal election, the council shall appoint not more than five qualified voters of each election district to serve therein as judges and clerks of the election.

10.04 Canvass of Elections. The council shall meet and canvass the election returns within five days after any regular or special election, and shall make full declaration of the results as soon as possible, and file a statement thereof with the City Clerk. This statement shall include: (a) the total number of good ballots cast; (b) the total number of spoiled or defective ballots; (c) the vote for each candidate, with an indication of those who were elected; (d) a true copy of the ballots used; (e) the names of the judges and clerks of election; and (f) such other information as may seem pertinent. The City Clerk shall forthwith notify all persons elected of the fact of their election.

10.05 Procedure at Elections. The conduct of elections shall be subject to the provisions of this charter and of the general laws of Minnesota.

ARTICLE XI

INITIATIVE, REFERENDUM AND RECALL

11.01 Powers of Initiative. The electors shall have power to propose any ordinance except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiated ordinance may be submitted to the council by a petition signed by qualified electors of the city equal in number to at least ten per centum of the registered voters of the city. However, a minimum of 200 signatures shall be required.

11.02 Powers of Referendum. The electors shall have power to approve or reject at the polls any ordinance passed by the council, or submitted by the council to a vote of the electors, such power being known as the referendum. Ordinances submitted to the council by initiative petition and passed by the council without change shall be subject to the referendum, in the same manner as other ordinances. Within twenty days after the enactment by the council of any ordinance which is subject to a referendum, a petition signed by qualified electors of the city equal in number to at least ten percentum of the registered voters of the city, however, a minimum of 200 signatures shall be required, may be filed with the city clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors.

11.03 Powers of Recall. The electors shall have the power to remove any elective official from office, such power being known as the recall. A proposal for the recall of any municipal official elected at large may be submitted to the city clerk by a petition signed by twenty-five percentum of the registered voters of the city, or if the official be elected solely by the electors of one ward, by twenty-five percentum of the registered voters of that ward, however, a minimum of 100 signatures shall be required. Any five electors of the city, in case the recall of an officer elected at large is sought, or of a ward, in case the recall of an officer solely by that ward, may form themselves into a committee to seek the recall of such officer. The committee shall certify to the city clerk the name of the officer and a statement in not more than 250 words of the grounds for which removal is sought.

11.04 Form of Petitions; Committee of Petitioners. All petition papers circulated for the purposes of an initiative, referendum or recall shall be uniform in size and style. Initiative petition papers shall contain the full text of the proposed ordinance. Recall petition papers shall contain the name of the officer and the full text of the grounds on which his removal is sought indented as filed with the city clerk. The signatures to initiative, referendum or recall petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any such petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description to identify the place. There shall appear on each petition the names and addresses of the same five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper, there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all the signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.

11.05 Filing, Examination and Certification of Petitions. All petition papers comprising an initiative, referendum or recall petition shall be assembled and filed with the city clerk as one instrument. Within twenty days after a petition is filed, the city clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The city clerk shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing his examination of the petition, the city clerk shall certify the result thereof to the council at its next regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings.

11.06 Amendment of Petitions. An initiative, referendum or recall petition may be amended at the time with ten days after the notification of insufficiency has been sent by the city clerk, by filing a supplementary

petition upon additional papers signed and filed as provided in case of an original petition. The city clerk shall, within five days after such an amendment is filed, make examination of the amended petition and, if the petition be still insufficient, he shall file his certificate to that effect in his office and notify the committee of the petitioners of his findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

11.07 Effect of Certification of Referendum Petition. When a referendum petition as defined in section 11.06 of this charter, has been certified as sufficient by the city clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the electors, as hereinafter provided.

11.08 Consideration of Council. Whenever council receives a certified initiative, referendum or recall petition from the city clerk, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The council shall take final action on the ordinance not later than sixty days after the date in which such ordinance was submitted to the council by the city clerk. A referred ordinance shall be reconsidered by the council and its final vote upon such reconsideration shall be upon the question, "Shall the ordinance specified in the referendum petition be repealed?"

11.09 Submission to Electors. If the council shall fail to pass an ordinance proposed by initiative petition, or shall pass it in a form different from that set forth in the petition therefor, and unsatisfactory to the petitioners, or if the council fail to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors not less than thirty days nor more than one year from the date the council takes its final vote thereon. The council may, in its discretion, and if no regular election is to be held within such period, shall provide for a special election.

11.10 Form of Ballot for Initiated and Referred Ordinances. Ordinances submitted to vote of the electors in accordance with the initiative and referendum provisions of this charter shall be submitted by ballot title, which shall be prepared in all cases by the legal adviser of the city. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance. The ballot used in voting upon any ordinance, if a paper ballot, shall have below the ballot title the following proposition, one above the other, in the order indicated: "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE." Immediately at the left of each proposition there shall be a square in which by making a cross (X) the elector may vote for or against the ordinance. Any number of ordinances may be voted on at the same election and may be submitted on the same ballot, but any paper ballot used for voting thereon shall be for that purpose only. If voting machines are used, the ballot title of any ordinance shall have below it the same two propositions, one above the other or one preceding the other in the order indicated, and the elector shall be given an opportunity to vote for either of the two propositions and thereby to vote for or against the ordinance.

11.11 Repealing Ordinances: Publication. Initiative and referendum ordinances adopted or approved by the electors shall be published, and may be amended or repealed by the council, as in the case of other ordinances.

11.12 Recall Election. If the petition or amended petition for the recall of an officer be found sufficient, the city clerk shall transmit it to the council without delay, and shall also officially notify the person sought to be recalled of the sufficiency of the petition and of the pending action. The council shall at its next meeting, by motion, provide for the holding of a special recall election throughout the city or in the ward in question, not less than thirty nor more than forty-five days thereafter, provided that if any other municipal election is to occur

within sixty days after such meeting, the council may in its discretion provide for the holding of the recall election at that time.

11.13 Procedure at Recall Election. In the published call for the election, whether posted on bulletin boards or printed in the official paper, there shall be given the statement of the grounds for the recall and also, in not more than five hundred words, the answer of the officer concerned in justification of his course in office. Candidates to succeed the officer to be recalled shall be nominated in the usual way, the election shall be conducted as far as possible, in accordance with the usual procedure in municipal elections.

11.14 Form of Recall Ballot. Unless the officer whose removal is sought shall have resigned within ten days after the receipt by the council of the completed recall petition, the form of the ballot at such election shall be as near as may be: "Shall A _____ be recalled from the office of _____?" the name of the officer whose recall is sought being inserted in place of A, and the electors shall be permitted to vote separately "Yes" or "No" upon this question. The ballot shall also contain the names of the candidates to be voted upon to fill the vacancy, in case the recall is successful, under the caption: "Candidates to fill the place of A, if recalled." But the officer whose recall is sought shall not himself be a candidate upon such ballot. In case a majority of those voting for and against the recall of any official shall vote in favor of recalling such official, he shall be hereby removed from office, and in that event, the candidate who receives the highest number of votes for his place shall be elected thereto for the remainder of the unexpired term. If the officer sought to be recalled shall have resigned within ten days after the receipt by the council of the completed recall petition, the form of ballot at the election shall be the same, or as nearly as may be, the form in use at a regular municipal election.

ARTICLE XII

GENERAL PROVISIONS

12.01 Contracts Extending Beyond One Year. No contract involving the payment of money out of the appropriations of more than one year shall be made for a period of more than five years; nor shall any such contract be valid unless made or approved by ordinance.

12.02 Publicity of Records. All records and accounts of every office, department or agency of the city shall be open to inspection by any citizen, any representative of a citizens' organization or any representative of the press at all reasonable times and under reasonable regulations established by the city manager, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish.

12.03 City Officers Not to Accept Favors or Contracts. No officer or employee of the city shall solicit or receive any pay, commission, money, or thing of value, or derive any special benefit, profit, or advantage, from, or by reason of, any improvement, alteration, or repair required by authority of the city, or any contract, to which the city shall be a party, except his lawful compensation or salary as such officer or employee, and except as he and his property may be benefited along with other persons and their property. No officer or employee of the city, except as otherwise provided in this charter, or by law, shall solicit, accept, or receive, directly or indirectly from any public utility corporation or the owner of any public utility or franchise, any pass, frank, free ticket, free service, or any other favor, upon terms more favorable than those granted the public generally. A violation of any of the provisions of this section shall disqualify the offender from continuing in office or in the employment of the city, and he shall be removed therefrom.

12.04 Official Bonds. The city treasurer, city manager, and such other officers or employees as the council may by general ordinance require so to do, shall give bond in such amount and with such surety as may be approved by the council. The premiums on such bonds shall be paid by the city.

12.05 Oath of Office. Every officer of the city shall, before entering upon the duties of his office, take and subscribe to an oath of office and file the same in the office of the city clerk.

12.06 Effect of This Charter on Existing Law. (a) All laws and parts of laws relating to or affecting the city of Bemidji in force when this charter shall take effect are hereby repealed and superseded to the extent that the same are inconsistent with the provisions of this charter; (b) In so far as the provisions of this charter are the same in terms or in substance and effect as provisions of law in force when this charter shall take effect, relating to or affecting the city of Bemidji, the provisions of this charter are intended to be not a new enactment but a continuation of such provisions of law, and this charter shall be so construed and applied. (c) All provisions and parts of the Charter of this City not restated in these Amendments are hereby repealed.

12.07 Amending the Charter. Amendments to this charter may be framed and submitted to the electors of the city in the manner provided by law.

12.08 Short Title. This charter, adopted by the people of the city of Bemidji, shall be known and may be cited as the "council-manager charter of Bemidji."

12.09 Intent of Charter -- Interpretation -- Separability Clause. It is the intent and purpose of this charter to confer upon the people of Bemidji full and complete municipal government, and to provide an economical, efficient and expeditious method of carrying that self-government into effect. Should this charter require judicial construction or interpretation, the spirit hereof shall be held to prevail rather than the strict letter; all questions of doubt shall be resolved in favor of self-government; and no power or right by this charter specifically granted shall be held to be a limitation upon or restriction of any other power or right inherent in or incidental to self-government not expressly limited or restricted herein or by the constitution or laws of the State of Minnesota. If any section or part of section of this charter shall be held invalid by Court of competent jurisdiction, such holding shall not effect the remainder of this charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

12.10 Damage Suits. Said city shall be absolutely exempt from liability to any person for damages for injuries suffered or sustained by reason of defective streets or sidewalks within said city unless actual notice in writing of such defects in said streets or sidewalks shall have been filed with the city clerk within at least ten days before the occurrence of such injury or damage. In the absence of such notice the city shall not be liable for any injury or damage on account of such defects, and in all cases such notice shall describe with particularity the place and nature of the defects of which complaint is made.

12.11 Official Newspaper -- Official Publications. The council shall annually designate a newspaper of general circulation in the city as the official paper in which shall be published such ordinances and matters as are by the laws of this State and by this charter required to be so published, and may publish such other matters as the council may deem it wise to have published in this manner.

12.12 Vacation of Streets. No street or alley within the city shall be discontinued except by ordinance.

ARTICLE XIII

SUCCESSION IN GOVERNMENT

13.01 Continuance of Present Officers and Employees. All persons holding administrative office at the time these amendments take effect shall continue in office and in the performance of their duties until provision shall have been made in accordance therewith for the performance

of such duties or the discontinuance of such office. The powers conferred and the duties imposed upon any office, department or agency of the city by the laws of the State shall, if such office, department or agency be abolished by these amendments, or under its authority, be thereafter exercised and discharged by the office, department or agency designated by the Council unless otherwise provided herein. Any person holding an office or position in the classified service of the city when these amendments take effect, shall continue in that office and shall thereafter be subject in all respects to the provisions of this charter, the civil service laws and ordinances in effect in the city and the general laws of the State of Minnesota. Other persons in the city service at the time these amendments take effect shall be regarded as holding their positions under provisional appointments.

13.02 Transfer of Records and Property. All records, property and equipment whatsoever of any office, department or agency or part thereof, all the powers and duties of which are assigned to any other office, department or agency by these amendments shall be transferred and delivered to the office, department or agency to which such powers and duties are so assigned. If part of the powers and duties of any office, department or agency or part thereof are by these amendments assigned to another office, department or agency, all records, property and equipment relating exclusively thereto shall be transferred and delivered to the office, department or agency to which such powers and duties are so assigned.

13.03 Continuity of Offices, Departments or Agencies. Any office, department or agency provided for in these amendments with a name or with powers and duties the same or substantially the same as those of an office, department or agency theretofore existing shall be deemed to be a continuation of such office, department or agency and shall exercise its powers and duties in continuation of their exercise by the office, department or agency by which the same were heretofore exercised and shall have power to continue any business, proceeding or other matter within the scope of its regular powers and duties commenced by an office, department or agency by which such powers and duties were heretofore exercised. Any provision in any law, rule, regulation, contract, grant or other document relating to such a formerly existing office, department or agency, shall so far as not inconsistent with the provisions of these amendments, apply to such office, department or agency provided for by these amendments.

13.04 Continuance of Contracts and Public Improvements. All contracts entered into by the city, or for its benefit, prior to the taking effect of these amendments, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or charter provisions existing at the time these amendments take effect may be carried to completion as early as practicable in accordance with the provisions of such existing laws and charter provisions.

13.05 Pending Actions and Proceedings. No action or proceeding, civil or criminal, pending at the time when (this charter) shall take effect, brought by or against the city or any office, department or agency or officer thereof, shall be affected or abated by the adoption of (this Charter) or by anything therein contained; but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any office, department, or agency or officer party thereto may by or under (this charter) be assigned or transferred to another office, department or agency or officer, but in that event the same may be prosecuted or defended by the head of the office, department or agency to which functions, powers and duties have been assigned or transferred by or under (this charter.)

13.06 Statutes Not Affected by Charter. All general laws and statutes of the State applicable to cities of the same class as the City of Bemidji operating under home rule charter, and not inconsistent with the provisions of this charter shall apply to the City of Bemidji, and shall be construed as supplementary to the provisions of this charter.

13.07 When Provisions Take Effect. These amendments shall take effect at the end of 30 days from the date of the election, at which they shall have been considered adopted by those lawfully voting at such election, as provided by law. The present officials of the city shall continue in their respective offices and function, and shall continue to

govern the city according to the charter as it existed prior to these amendments and will serve to carry on the government of this city until a new government has been set up under the present charter as amended by these amendments. The present city council shall make provisions for the election of the first council and a mayor as provided for in these amendments within 30 days after the adoption of these amendments. Upon the election of such new officers, the former officers shall deliver to them the records, money and other public property in their control as provided by law.

The new city council elected under the provisions of these amendments shall have the power, and it shall be its duty, to appoint the first city manager provided for by these amendments as soon as possible after they subscribe to their oath of office, and upon the appointment of such first city manager, the provisions of this charter with these amendments shall go fully into effect, and all officers and departments of this city shall thereafter be governed thereby.

Dated this 5th day of August, 1952.

CHARTER COMMISSION

A. C. CLARK, Chairman

EARL W. BUCKLEN

T. D. DUGGAN

MRS. EDNA ESSLER

J. A. FORESTER

EARL GRINGLES

A. D. JOHNSON

MARVIN KROG

W. S. LAMONT

FRANK MARCUS

MRS. CHAS. SCHROTH

EARL WILD

A. D. WILSON

W. J. WILSON

State of Minnesota)
County of Beltrami) ss.
County of Beltrami)

I, F. G. Troppman, the duly elected, qualified, and acting Mayor and Chief Magistrate of the City of Bemidji, Minnesota, do hereby certify that the foregoing and annexed amendment to the existing Charter of the City of Bemidji, adopted September 26, 1905, and amended December 10, 1941, was adopted and ratified by the electors of said City of Bemidji at a special election duly called by notice and held pursuant to law in said City for that purpose, on Tuesday, the 7th day of October, 1952; that the canvass of the election returns by the City Council of the City of Bemidji made on the 13th day of October, 1952, showed that the total number of votes cast in the City election was 1601 and that of such votes so cast the number of votes in favor of adoption thereof was 1144 and the number of votes against such adoption was 457.

WITNESSETH, My hand, and the corporate seal of said City of Bemidji, Minnesota, this 15th day of October, 1952.

F. G. Troppman
Mayor and Chief Magistrate
City of Bemidji
Bemidji, Minnesota

11833

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 24 1952

Mrs. Virginia Holm
Secretary of State

#11833
O.D.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL 24 1952

Mrs. Virginia Holm
Secretary of State