

**CITY CHARTER**  
OF  
**CITY OF WABASHA**  
**MINNESOTA**

HOME RULE CHARTER VOTED UPON BY THE  
ELECTORS OF THE CITY OF WABASHA  
September 7th, 1920

RESULT OF VOTE CANVASSED BY THE COUNCIL

JOHN A. McDONALD  
MARCUS SATORY

E. J. HASELTINE  
FRANK TRITCHLER

EDWARD CARRELS  
G. A. MARSCHNER

Attested, J. M. SCHOUWEILER, Recorder

CHRIST GRASS, Mayor

Approved by  
MICHAEL MARX, City Attorney

Officially Published by  
WABASHA COUNTY HERALD

2251

I HEREBY CERTIFY, That the foregoing is the Charter Proposed  
by the Board of Freeholder, duly appointed by the Judge of the  
District Court, in and for said County of Wabasha, Minnesota, and  
that it was duly ratified by the electors of the City of Wabasha,  
Minnesota, on the 7th. day of September, 1920.

Christ Gross

Attested.

John M. Schowille

Mayor.

Recorded of City of Wabasha.

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# CITY CHARTER

## CITY OF WABASHA, MINNESOTA

### CHAPTER I.

#### NAME, BOUNDARIES, POWERS, RIGHTS AND LIABILITIES.

SECTION 1. *Name and Boundaries.* The municipal corporation in the County of Wabasha and State of Minnesota known as the "City of Wabasha," shall continue to be a municipal corporation under the same name and with boundaries as now established by law as follows:

"Beginning at a point on the Mississippi river at the dividing line between Wisconsin and Minnesota at the mouth of a small creek between Wabasha and Read's Landing, thence up said creek to the west line of township number one hundred and eleven (111) north, range ten (10) west, thence along said township line to the northeast corner of section number thirty-six (36), township number one hundred and eleven (111) north, range eleven (11) west, thence along the north line of section number thirty-six (36) to the northwest corner of said section, thence on the west line of said section to the southwest corner, thence on the south line of said section to the southeast corner, thence along the west line of section six (6), township number one hundred and ten (110) north, range ten (10) west, to the southwest corner of said section, thence along the south line of section six (6), five (5), and four (4) of township one hundred and ten (110) north, range ten (10) west, to the southeast corner of said section number four (4), thence north along the east line of said section four (4), township one hundred and ten (110) north, range ten (10) west, to the northeast corner of said section four (4), thence east along the north line of section three (3), township one hundred and ten (110) north, range ten (10) west, to the dividing line between Wisconsin and Minnesota, thence along the said line to the place of beginning."

SEC. 2. *Rights and Liabilities.* The City of Wabasha shall have perpetual succession and shall remain vested with and continue to have, hold and enjoy all property, property rights, rights

of action and rights of every kind now belonging or pertaining to the city and shall be subject to all the liabilities that now exist against the City.

SEC. 3. *Powers of the City.* The City of Wabasha may sue and be sued; shall have and use its present seal and may alter its seal at pleasure; shall be capable of contracting and being contracted with; may take by purchase, condemnation or otherwise, and hold, lease, sell and convey all such real and personal property as its purposes may require, or the transaction of its business may render convenient, within or without the limits of the City, may acquire, construct, own, lease and operate public utilities, and render public service of every kind; may grant franchises or licenses for the construction, operation and maintenance of public utilities, in, over, upon, and under the streets and public places in the city, and shall have power to fix and regulate the fares, tolls or charges which may be collected, order the extensions which shall be made, and regulate the services which shall be rendered by any owner or operator of a public utility franchise or license; may assess, levy, and collect taxes, for general or special purposes, on all subjects or objects which the City may lawfully tax; may borrow money on the faith and credit of the City or on a public utility or other property owned by the City, by the issuance and sale of bonds or certificates of indebtedness; may appropriate the money of the City for all lawful purposes; may provide for, construct, regulate and maintain public works and local improvements; may levy and collect assessments for local improvements; may license and regulate persons, corporations and associations engaged in any business, occupation, trade or profession; may define, prohibit, abate, suppress all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the City, and all nuisances and causes thereof; may regulate the construction, height and materials used in all buildings, and the maintenance and occupancy thereof; may regulate and control the use for whatever purposes of the streets and other public places; may make and enforce local police, sanitary, and other regulations; may pass ordinances for maintaining and promoting peace, good government, and welfare of the City, and for the performance of all the functions thereof; shall have all the powers possessed by municipal corporations at common law; shall have, retain and may exercise all powers, functions, rights and privileges, heretofore possessed by it; may exercise such powers beyond its corporate limits as may be necessary or convenient for the effective exercise of any powers granted herein as now authorized by law; and in addition thereto, the City of Wabasha shall have and exercise all powers, functions, rights, and privileges exercised by, or which are incidental to, or inherent in, municipal corporations and are not denied to it by the constitution or general laws of the State of Minnesota. The enumeration of powers herein shall not be construed to limit or

restrict the powers granted in general terms, nor shall any specific power granted in this charter be construed to limit or restrict the powers granted in this section. In addition to the powers herein and hereafter granted, the City of Wabasha shall have full power to deal with all matters of municipal concern and have complete self-government in harmony with and subject to the constitution and laws of the State of Minnesota.

SEC. 4. *Powers, How Exercised.* All powers of the City unless otherwise provided by this charter, shall be exercised by the City Council or under its direction.

#### CHAPTER II.

##### ELECTIVE OFFICERS.

SEC. 5. *Elective Officers.* There shall be elected at large in the City of Wabasha, a mayor, a city treasurer, two justices of the peace and city assessor, and there shall be elected from each ward of said city two aldermen, all of whom shall have been resident and qualified voters of their respective wards thirty (30) days next preceding their election. The mayor and aldermen shall, together, constitute the Common Council of said City.

SEC. 6. *Election and Term of Office.* The term of office of the mayor, the city treasurer, the justices of the peace and the city assessor, and the aldermen shall each be two years, and at the first municipal election after the adoption of this charter one alderman in each ward of the city shall be elected for two years, one justice of the peace shall be elected each year.

SEC. 7. *Eligibility.* No person shall be eligible to any elective office unless he be a citizen of the United States and of the State of Minnesota and a resident of Wabasha.

SEC. 8. *Vacancies.* An elective office shall be deemed vacant in case of failure of the person elected to qualify within ten days after official notice of his election, or by reason of death, resignation, removal from office, removal from the city, continuous absence from the city for more than three months, conviction of a felony, or violation of any of the duties of the office, which by the provision of this charter render the office vacant. If a vacancy occurs in an elective office, other than by recall or resignation after a recall petition is filed, the council shall forthwith appoint an eligible person to fill the same until the next general municipal election, when the office shall be filled for the unexpired term.

SEC. 9. *Salaries.* The mayor of the city shall receive a salary of \$75.00 per annum, and each alderman shall receive a salary of \$50.00 per annum.

#### CHAPTER III.

##### ELECTIONS.

SEC. 10. *Time of Election.* A municipal election shall be held on the first Tuesday of April, 1921, and on the first Tuesday

of April annually thereafter at such place, or places, as the council shall designate, which shall be known as the general municipal election. At least fifteen days' previous notice shall be given by the city clerk of the time and place of holding such election and of the officers to be elected, by posting a notice thereof in three public places in the city and by insertion in the official newspaper published in the city.

SEC. 11. *How Conducted.* The general laws of the State of Minnesota relating to elections and corrupt practices shall, in so far as applicable, govern all general and special municipal elections, except as otherwise provided in this charter. The council shall make suitable provision for the holding of elections.

SEC. 12. *Nominations.* Candidates to be voted for at all municipal elections shall be nominated by petition, filed with the city clerk at least twelve days before the election. Such petition shall be signed by not less than ten per cent of the qualified voters, voting at the last general election in the several election districts. Each person so nominated by petition shall file his acceptance with the city clerk not later than ten days before the date of the election, and may file a declaration of principles at the same time in not more than two hundred words. In the absence of such acceptance, the name of the candidate shall not appear on the ballot.

SEC. 13. *Special Elections.* The council may by resolution order a special election, fix the time of holding the same, and provide all means for holding such special election in the same manner as herein provided for the other municipal elections.

#### CHAPTER IV.

##### COUNCIL AND LEGISLATION.

SEC. 14. The mayor of the City shall preside at all meetings of the Council. At the first regular meeting of the council, which shall be held on the third Tuesday in April each year, the council shall elect one of its members president, who shall preside at the meetings of the council in the absence of the mayor. Such president shall, in the absence of the mayor from the city or in case of his inability to serve, be acting mayor with full power as mayor. The mayor shall have the same right that the aldermen of the council possess, to vote on all the questions which come before the council.

SEC. 15. *Council Meetings.* All meetings of the council shall be held in a place previously designated by it and publicly announced. The council shall keep a journal of its proceedings, which shall be a public record, and all proceedings shall be published. It shall hold at least two regular meetings, one on the first Tuesday and one on the third Tuesday of each month, and may hold other meetings as provided by its rules. At any meeting of the council, four members shall constitute a quorum, but a less

number may adjourn from time to time. The council shall provide by ordinance a means by which a minority may compel attendance of absent members.

SEC. 16. *Ordinances and Resolutions.* Except as in this charter otherwise provided, all legislation shall be by ordinance. Every ordinance shall be presented in writing and read in full at a council meeting before a vote is taken thereon.

All appropriations of money, the granting of licenses, the fixing of salaries and the exercises of the powers conferred by Chapter VII shall be by either resolution or ordinance. All ordinances and resolutions must receive at least four affirmative votes and on all ordinances and resolutions the roll shall be called and the ayes and nays be recorded.

SEC. 17. The enacting clause of all ordinances shall be in the words: "the City of Wabasha does ordain."

SEC. 18. *Filing and Reading Ordinances.* Every ordinance other than emergency ordinances, shall have two public readings, and at least three days shall elapse between the first and second readings thereof. Every ordinance before passage shall be published once in the official newspaper of the city. Every resolution appropriating money in excess of one thousand dollars, and every ordinance and resolution authorizing the making of any contract involving a liability on the part of the City in excess of one thousand dollars shall remain on file in the office of the city clerk at least one week before its introduction and shall be published in like manner before passage, except an emergency ordinance or resolution. An emergency ordinance or resolution is an ordinance or resolution 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 receiving the affirmative vote of at least four members of the council. No grant of any franchise shall be construed to be an emergency ordinance or resolution. An emergency ordinance or resolution may be enacted without previous filing.

SEC. 19. *Signing and Publication of Ordinances.* Every ordinance and resolution passed by the council shall be presented to the mayor. If he approves, he shall sign it within ten days of the receipt thereof. If he disapproves of any ordinance or resolution, he shall return it to the council within ten days, with his written objections. If he fails to act within that time, it shall be effective without his signature. Every ordinance or resolution vetoed by the mayor shall be void, unless repassed by the council at its next meeting occurring after the return of such ordinance or resolution by the mayor by a five-sevenths vote. Every ordinance shall be signed by the mayor, except as above provided, and be attested by the city clerk, and shall be published at least once in the official paper of the City within twenty days after its passage by the council and shall be recorded in a book kept for that purpose, which

record shall be attested by the city clerk. All of the proceedings of the council shall be published in the official paper.

SEC. 20. *When Ordinances and Resolutions Take Effect.* Ordinances and resolutions making the annual tax levy, determining the annual budget, providing for local improvements and assessments, and emergency ordinances, shall take effect immediately upon their passage. All other ordinances enacted by the council shall take effect ten days after the date of their last publication, unless a later date is fixed therein, in which event they shall take effect at such later date.

SEC. 21. *Amendment and Repeal of Ordinances.* Amendments and repeals of ordinances, or parts thereof, shall be by ordinance. An amending ordinance shall set forth the entire ordinance or section amended.

#### CHAPTER V.

##### ADMINISTRATION OF CITY AFFAIRS.

SECTION 22. *Administrative Departments.* The executive and administrative powers, authority and duties not otherwise provided for in this Charter shall be distributed among the following departments:

1. THE DEPARTMENT OF THE MAYOR.
2. THE DEPARTMENT OF THE CITY TREASURER.
3. THE DEPARTMENT OF THE STREET COMMISSIONER.
4. THE DEPARTMENT OF THE CITY ASSESSOR.
5. THE DEPARTMENT OF THE CITY ATTORNEY.
6. THE DEPARTMENT OF THE CITY CLERK.

SEC. 23. *The Mayor.* The mayor shall have general control and direction of the police and fire officers of the city and shall also have general control and direction of the street work to be done within the limits of the city. He shall appoint all police officers of the city and also the chief of the fire department, the street commissioner and such other subordinate officers and employees in his department as may be authorized by ordinance. Unless otherwise provided by ordinance, the duties of street commissioner and chief of police of the City shall be filled by one and the same person. Such officer shall be appointed with special reference to his qualifications as street commissioner and shall in addition thereto, so far as practicable perform the duties of chief of police. He may also be by the mayor assigned to such other duties within the City pertaining to the management of any of the public utilities as may, to the mayor seem advisable. The mayor shall also appoint, in each ward, one constable who shall be a duly qualified police officer of the City. The mayor shall have authority to remove any official by him appointed, or to suspend him for a limited period, but in all cases of such removal

or suspension, the mayor shall file with the city clerk his written order therefor, giving therein his reasons for such removal or suspension. The mayor shall be chief executive officer of the City and see that the laws, the provisions of this charter and the ordinances are duly enforced. He shall have general oversight of the administration, make recommendations and transmit information to the council concerning affairs of the City and the safety and well-being of the people.

SEC. 24. *Heads of Departments Appointed.* At its first regular meeting on the third Tuesday in April and on the same day every second year thereafter, the council shall elect a city attorney, a city clerk and a board of public health, consisting of three members, one of whom shall be a physician, to hold office for two years or until their successors are elected and qualified.

SEC. 25. *City Treasurer.* The city treasurer shall be the receiver of all money belonging to the City and be responsible for its safekeeping, and shall receipt therefor to the city clerk. He shall furnish good and sufficient bonds in a sum to be determined by the council, conditioned for the faithful performance of his official duties. All such bonds shall be surety bonds, approved by the council and the mayor and shall be furnished by surety companies authorized to do business in this state. The premium therefor to be paid by the City. No money shall be paid by the city treasurer except on written order of the city clerk, accompanied by a proper voucher. He shall make a full report of the finances of the City annually and submit it to the council on the first day of April, and submit such further reports as the council may prescribe.

SEC. 26. The Common Council shall have the power to purchase fire engines and all other apparatus which may be required for the extinguishment of fires, and to authorize the formation of fire engine, hook and ladder and hose companies, and to provide for the support and regulation of the same, and to order such companies to be disbanded, their public meetings prohibited and their apparatus to be given up. Every member of each company which may be authorized to be formed, shall be exempt from serving on juries, during continuance of such membership, and every such company shall elect its own officers, except the chief and make its own by-laws, subject however, to the approval of the common council.

SEC. 27. *Street Commissioner.* The street commissioner appointed by the mayor as hereinbefore provided, shall, subject to the orders of the mayor, have charge of the laying out, grading, paving, sprinkling, and cleaning of all the streets and alleys, the construction and repair of curbs and gutters, sidewalks, bridges, sewers, water pipes and other structures in or under the streets, and shall perform such further duties as the mayor may direct.

SEC. 28. *City Assessor.* The city assessor shall make a fair

and equitable valuation of all the taxable property of the City in accordance with the requirements of the state law.

SEC. 29. *City Attorney.* The city attorney shall be the legal advisor of the council and all the departments and boards of the City. He shall give his opinion upon any question of law pertaining to the City and submit it in writing to the council or any board or official of the City. He shall prosecute all violations of the City Charter and City Ordinances and all other violations of law within the City which are misdemeanors and shall appear for the City in all cases in which it is a party.

SEC. 30. *City Clerk.* The city clerk shall be the head of his department, which is hereby charged with the keeping of the books and records of the City. He shall attend all meetings of the city council and keep an accurate journal of its proceedings, and countersign all ordinances and resolutions. He shall keep the corporate seal, and have power to administer oaths and take acknowledgments of deeds and other writings. He shall draw and countersign all orders on the treasurer in pursuance of any order or resolution of the council, and keep a full and accurate account thereof in the books provided for that purpose. He shall keep a correct and adequate system of books showing the financial condition in detail at all times, the property the City owns, and all its outstanding obligations. He shall recommend and the council shall regulate by ordinance the system of bookkeeping, the forms and blanks to be used and the methods of transacting business by the City. He shall prepare and submit estimates of the cost of all work to be done by the City and plans and specifications of all purchases to be made.

SEC. 31. *Responsibility for Purchases.* The heads of departments shall make all purchases of supplies for the City under orders of the council. The heads of departments shall confer with and advise with the council in drawing up plans and specifications. Each head of a department shall inspect all articles purchased at the time of delivery to see that specifications are complied with as to quantity, quality, grade, price and all other stipulations, before accepting delivery and receipting for the same. Each department shall keep such records and make such reports of purchases as the city clerk may prescribe.

SEC. 32. *Appointments and Removals.* Each head of a department shall appoint such subordinates within his department and employ such help as may be authorized by ordinance. He may remove any such subordinate or employee.

SEC. 33. *Salaries.* The council shall, at its first meeting in March of each year, fix by resolution the compensation of all salaried officers and employees of the City not elected by the people, except day labor.

SEC. 34. *Administrative Organization.* The organization of the departments, the distribution and increase of their powers and duties may be altered and new departments may be created by ordinance as the City's needs may require, but no function or office assigned to one department by provisions of this charter shall be transferred to another or otherwise removed, except by unanimous vote of the council.

SEC. 35. *Investigations and Surveys.* The council, when needed, may employ technical experts of recognized ability and attainments. Such experts need not be residents of the city or citizens of the state. Committees of citizens, serving without pay, may be appointed to conduct investigations and make surveys of public affairs and transmit their recommendations and reports to the council or any department or board.

#### CHAPTER VI.

##### FINANCE AND TAXATION.

SECTION 36. *Council to Control Finances.* The council shall have full authority over the financial affairs of the City, and shall provide for the collection of all revenues and other assets, the auditing and settlement of all accounts, the disbursement of all money, and in the exercise of a sound discretion shall make appropriations for the payment of all liabilities and expenses.

SEC. 37. *Fiscal Year.* The fiscal year of the City shall end each year on the 31st day of March.

SEC. 38. *Assessment for Taxation.* Except as herein otherwise provided, the general laws of the state relating to taxation shall apply in this City. The council shall regulate by ordinance the method of making assessments and require fair valuations to be made.

SEC. 39. At the first stated meeting in June of each year, the mayor shall appoint by and with the consent of the common council, one (1) alderman from each ward in the city, who shall constitute a board of review. They shall be sworn according to law as such board, and meet at the room of the common council in said city on the fourth (4th) Monday in June of each year, or at such time as such boards may hereafter be required to meet by the general laws of this state, and revise, alter and equalize the assessments on the roll of the assessor as they may deem just and proper. It shall be the duty of the assessor and city recorder to be present at all meetings of said board of review; the recorder shall act as clerk of said board and the assessor shall present before the board all facts relating to the assessment. Such board of review shall possess and be vested with all the powers which are or may be vested in town boards of review, and may require any person who may be required to list property, or whose property is listed for



taxation to appear before said board and submit to an examination on oath touching any property owned by him or under his control subject to be listed for taxation and they may examine upon oath any person whom they may suppose to have knowledge of the amount or value of the personal property of any person, and for that purpose any member of said board is hereby authorized to administer oaths to all persons, who by the provisions of this act are required to submit to any examination before said board. Said board of review may sit from day to day or adjourn from time to time as it shall deem proper; until it shall have revised and equalized said assessments. Any person aggrieved by any assessment shall have the right to appear before such board of review and present his grievances, and whenever it appears upon a hearing or otherwise that any property is listed or assessed at more or less than its true value, said board shall immediately proceed to correct such over or under valuation as the case may be; and whenever it appears to the satisfaction of the board that property which ought to be listed has been omitted by the assessor, or otherwise, the board shall immediately proceed to list and place such property on the tax roll, with the true value thereof. Any two of said board of review are authorized to act at any meeting of said board. When the assessment rolls shall have been revised by said board, they shall return the same to the common council who may confirm the same or return the same to the board for further revision, to be again reported to the common council. When the common council shall have confirmed the assessment, the city recorder shall attach thereto a certificate of such confirmation, and such rolls shall then be returned to the county auditor, within the time and in the same manner as are other assessment rolls. In case the common council shall neglect to take final action on such assessment rolls on or before the time required by law for the return thereof to the county auditor, it shall be the duty of the city recorder to return them to the county auditor with a certificate of that fact, and in such case the assessment rolls as revised by the board of review shall have the same validity as if confirmed by said common council. Each member of the board of review shall receive Three dollars (\$3.00) per day for the time actually employed in serving on said board.

SEC. 40. *Annual Budget. Annual Estimates.* The city clerk shall on or before the second Monday in August confer with the heads of departments, and such boards or other official bodies as may be authorized to expend public funds, and prepare the estimates for the annual budget. The estimates shall be arranged for each department or division of the City under (1) Ordinary Expenses (for operation, maintenance and repairs); and (2) Capital Outlays (for new construction, new equipment and all improvements of a lasting character). Ordinary expense shall be subdivided into: (a) Salaries, with a list of all salaried officers and

positions, with the salary allowance and number of persons holding each; (b) Wages; (c) Printing, Advertising, Telephone, Telegraph, Express, and other like items; (d) Supplies and Repairs, with sufficient detail to be readily understood. All increases and decreases shall be clearly shown. In parallel columns shall be added the amounts granted and the amounts expended under similar heads for the past two completed fiscal years and for the current year.

The city clerk shall add thereto a statement of the revenues which have accrued for the past three fiscal years, the amount collected, the uncollected balance and an estimate of the revenues for the next fiscal year. The statement of revenues shall specify the following items: Sums derived from (a) Taxation, (b) Fees, (c) Fines, (d) Interest, (e) Miscellaneous, not included in the foregoing; (f) Sales and Rentals; (g) Operation of Public Utilities; (h) Special Benefit Assessments; and (i) Sales of Bonds and Other Obligations. Such estimates shall be in typewriting and shall be submitted to the council at a meeting not later than the first Monday in September and shall be made public.

SEC. 41. *Making of Budget.* The council shall meet to consider the budget and to hear from the authorities asking for appropriations and from interested citizens one week after the estimates were submitted and made public. There shall be prepared and presented to the council a proposed budget resolution and the council shall hold meetings thereafter for its consideration until ample time has been granted for full discussion and consideration thereof.

The annual budget finally agreed upon shall be a resolution setting forth in detail the complete financial project for the City for the next fiscal year. It shall indicate the sums to be raised and from what sources and the sums to be spent and for what purposes, according to the plan indicated in Section 40. The total sum appropriated shall always be less than the total estimated revenues by a safe margin. The council shall adopt the budget resolution not later than the first day of October, and levy taxes accordingly.

SEC. 42. *Enforcement of the Budget.* It shall be the duty of the city clerk to enforce strictly the provisions of the budget. He shall not approve any warrant upon the city treasurer for any expenditure unless an appropriation has been made in the budget, nor for any expenditure covered by the budget unless there is a sufficient unexpended balance left after deducting the total past expenditures and the sum of all outstanding warrants. The heads of the departments shall not place any orders or make any purchases except for the purposes and amounts authorized in the budget. Any obligation incurred by any person in the employ of the City for any purpose not authorized or for any amount in excess

of the amount duly authorized shall be a personal obligation upon the person incurring the expenditure.

SEC. 43. *Alterations in the Budget.* After the budget shall have been duly adopted, the council shall not have the power to increase the amounts fixed therein, whether by the insertion of new items or otherwise, beyond the estimated revenues, unless the actual receipts shall exceed such estimates, and in that event not beyond such actual receipts. The sums fixed in the budget shall be and become appropriated after the beginning of the next fiscal year for the several purposes named and no other. The council may at any time, by a resolution passed by a five-sevenths vote, reduce salaries or the sums appropriated for any other purpose and may authorize the transfer of sums from the unexpended balance to other purposes.

SEC. 44. *Tax Levy and Bond Issue. Levy and Collection of Taxes.* On or before the first of October immediately after the adoption of the annual budget, the council shall levy by resolution the taxes necessary to meet the requirements of the budget for the next fiscal year, subject to the limitations of this charter. The city clerk shall transmit, not later than the tenth of October, to the county auditor a statement of all taxes levied, and such taxes shall be collected and 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.

SEC. 45. *Maximum Tax Rate.* The annual tax rate to defray the ordinary expense for operation and maintenance and fixed charges of the various branches of the City government shall never exceed twenty-five mills. It shall be the duty of the city clerk to compute the rate of taxation required by the annual budget, subject to the foregoing limitations, and report the same to the council.

SEC. 46. *Issuance of Bonds.* The council may, subject to the restrictions hereinafter provided, issue bonds, on the faith and credit of the City, on either of two plans: Plan (a), bonds whose redemption is provided for at maturity by means of an adequate sinking fund; Plan (b), Serial Bonds, a fixed installment of which falls due annually and whose redemption is guaranteed by an annual tax levy especially provided for that purpose at the time of issue.

The council may adopt either Plan (a) or Plan (b) as may be most advantageous or practicable, except that all issues of bonds to refund outstanding bonds or debts shall be serial bonds issued under Plan (b). No bonds shall be issued to run for a longer term than the maximum estimated life expectancy of the property or improvement for which such loans are authorized, as ascertained

and set forth in the ordinance authorizing such bonds. In no case shall bonds be issued to run for more than thirty years. The purposes for which bonds are issued shall be set forth in the ordinance authorizing them, and the proceeds from such bonds shall not be diverted to any other purpose. The full faith and credit of the City is pledged for the payment of all bonds, and interest thereon, issued under this section.

SEC. 47. *Public Utility Bonds and Certificates of Indebtedness.* In addition to the bonds authorized in Section 46 the council may issue interest-bearing certificates of indebtedness for the purpose of acquiring, constructing, extending, improving or maintaining public utility plants by pledging such public utility property as security therefor. Such certificates of indebtedness shall be a lien or charge against such public utility for which they were issued and shall be payable, together with the interest thereon, out of the specified portion of the revenues or earnings derived from such public utility.

SEC. 48. *Limitation on Bond Issues.* The council shall determine at the time of framing the annual budget what portion of the revenue required for capital outlays, as defined in Section 40, for the next fiscal year may properly be raised from the sale of bonds or certificates of indebtedness. The remainder of the sum required for capital outlays shall be raised by taxation. No part of the revenue for the payment of the ordinary expenses as defined in Section 40, shall be derived from the sale of bonds.

The council may then authorize the issuance of bonds to provide the sum required by the annual budget, subject to the following restrictions:

*First.* The council may by a five-sevenths majority vote, issue bonds for a sum not to exceed the proceeds of a two mill tax upon the assessed value of the taxable property of the City for that year.

*Second.* The council, by a unanimous vote, may issue in any one year additional bonds for an amount not to exceed the proceeds of a four mill tax.

*Third.* All issues of bonds, and issues of certificates of indebtedness in any fiscal year in excess of a sum equal to the proceeds of a six mill tax, require the approval of a majority of the voters voting thereon at a general or special election.

SEC. 48 A. *Light Plants, Power to Acquire, Bonds, Condemnation.* Whenever at any general or special election, held in the City of Wabasha the electors thereof by an affirmative vote of three-fifths of the legal voters voting thereat, so determine the City of Wabasha shall have authority and power in addition to all other powers to issue bonds conferred upon it elsewhere by this Charter, or by virtue of any general or special law, and in addition to all other bonds that it is by law authorized to issue. To issue its bonds in

the aggregate amount hereinafter mentioned to be determined as hereinafter set forth, and to dispose of the same as hereinafter provided, and to use the proceeds thereof for the purpose of constructing, extending, enlarging, improving or purchasing a municipal light plant, but the city may acquire such electric light plant by purchase at such price, not exceeding its fair value, and on such terms as may be agreed on between said city and the owner thereof, or if such arrangements as to price and terms cannot be arrived at, it may acquire such system by condemnation thereof. The procedure in the event of condemnation shall be that prescribed by Chapter 41, Revised Law of 1905, or that prescribed by this Charter and the purchase price of said plant or system as so fixed by agreement or condemnation may be paid out of the proceeds of the bonds by this section authorized to be issued and the balance of the proceeds, if any, may be used for the extension, enlargement or improvement of such plant or plants so acquired.

SEC. 48 B. *Same— Power of Council, Submission to Voters, Notice.* Whenever the city council of the City of Wabasha, at a regular meeting thereof, determine by resolution, duly adopted by a majority vote of all the members thereof, entered upon the minutes of the proceedings, that it is necessary either to acquire by purchase or condemnation, light plants already in existence, or construct, extend, enlarge or improve a light plant, and that the funds in the treasury of the City of Wabasha available therefor, are not sufficient for such purpose, and that it is necessary to issue the bonds of such city in amount to be determined by such city council in such resolution, not exceeding in the aggregate fifteen per cent of the assessed valuation of the taxable property of such city according to the last preceding assessment thereof, the city council may cause the proposition of issuing such bonds, in such an amount, to be submitted to the electors of the city at any general or special election to be held therein. Such resolution shall fix the time of said voting if the same be submitted at a special election, which shall not be less than ten days after the date of the adoption of said resolution, and said special election shall be conducted as provided by law for general elections.

The notice of such elections at which said proposition is to be submitted, whether general or special, shall contain a statement of the total amount of the principal of said bonds, and the purpose to which it is proposed to put the same.

SEC. 48 C. *Same— Election, How Conducted; Ballots, etc.* In voting upon such a proposition those in favor of issue of bonds, shall have written or printed, or partly written and partly printed on the ballots used, the words "Issue of Bonds." "Yes," "No," and each elector voting on such propositions shall make a cross mark thus: (x) in one of the two spaces left for the purpose upon the margin of the ballot used as provided in section twenty-eight, chapter four, General Laws of Minnesota for 1893. The elector

desiring to vote in favor of issuing bonds shall make a cross mark thus (x) in the place left opposite the word "Yes," and the elector desiring to vote against the issuing of bonds shall make a cross mark thus (x) in the place so left opposite the word "No," and no ballot shall be counted on said proposition except those having said cross mark (x) opposite one only of said words "Yes," "No." The voting shall be conducted in the same manner as provided by law for the election of city officers, and shall be counted, returned and canvassed in the same manner as provided by law for the election of city officers, and if upon such canvass it appears that a three-fifths majority of all the votes cast upon said proposition, shall be in favor of issuing bonds the same may thereafter be issued in accordance with the provisions of this act, but not otherwise.

SEC. 48 D. *Same— Bonds, When Issued; How Disposed of.* Whenever the electors of the city at any such election shall declare in favor of issuing the bonds of the city hereunder, the City of Wabasha, and the City Council thereof, is hereby authorized and empowered by an affirmative vote of a majority of the members of such council to issue the bonds of the City of Wabasha, in an amount to be determined by the city council, not exceeding in the aggregate the amount contained in said proposition, adopted by the electors at said election, and the city council may dispose of the same, as hereinafter provided, and may use the same and the proceeds thereof for any of the purposes which the resolution provided for in section two of this act shall specify, but not otherwise.

SEC. 48 E. *Same— Terms of Bonds, etc.* Such bonds shall be of such denomination as the city council may determine, shall be payable at such place as the city council may designate; at such times, not less than ten nor more than thirty years from date of issue; shall be made payable to bearer, or to the order of the person or corporation to whom they may be delivered, as the city may deem best, and shall draw interest payable semi-annually, at such place as the city council may determine, at a rate not exceeding six per cent per annum, to be represented by coupons attached to said bonds. Said bonds and coupons shall be signed by the mayor and attested by the clerk, or similar officer or recorder of the City of Wabasha, and the corporate seal of the city shall be imprinted upon said bonds.

SEC. 48 F. *Same— Bonds, How Disposed Of.* The city council shall have authority by a majority vote of all its members to dispose of such bonds in such manner as in the judgment of the city council shall best subserve the interest of the city, but it shall not negotiate the sale, dispose of, nor sell said bonds, nor any of them, at less than their par value and accrued interest, and neither the said bonds or the proceeds of the sale thereof shall be used for any other purpose than specified in said resolution contemplated by Section 48 B hereof, and such purpose shall be again distinctly

stated in said resolution of said council authorizing the issuance thereof.

SEC. 48 G. *Same—Lien of Bonds, etc.* The principal and interest of any such bonds so issued is hereby declared to be a first lien upon the light plants respectively constructed or acquired by means of said bonds or the proceeds of the sale thereof, and the faith and credit of the city issuing the same is hereby irrevocably pledged to the payment thereof, any provision of the law of this state, whether general or special, to the contrary notwithstanding.

SEC. 49. *Disbursements, How Made.* All disbursements, except the principal and interest on bonds and certificates of indebtedness, and except orders of the library board and orders of the water, light and power commission, shall be made only upon the order of the mayor and city clerk, duly authorized by a resolution of the council, and every such resolution and order shall specify the purpose for which the disbursement is made, and indicate that it is to be paid out of the proper fund. Each such order shall be payable to the order of the person in whose favor it is drawn. But no such order shall be issued until there is money sufficient to pay the same to the credit of the fund out of which it is to be paid, together with all then outstanding orders against such fund. Any order or resolution for the payment of money violating any provision of this section shall be void, and any officer of the City violating any provision of this section shall be personally responsible for the amount of such payment, if any such payment is made contrary to the provisions hereof. No contract requiring the payment of money by the City shall be valid unless the particular fund out of which the same is to be paid is specified in such contract. No claim against the City shall be allowed unless accompanied by an itemized bill and voucher, pay roll, or time sheet signed by the responsible officer who has personal knowledge of the facts in the case and vouches for the correctness and reasonableness of the claim.

SEC. 50. *Funds to be Kept.* There shall be maintained in the city treasury the following funds for the support of which the council may levy an annual tax:

1. A sinking fund for the purchase, or payment when due, of any bonds or any other debt of the City, and to pay the interest on all bonds and other obligations of the City. The council shall levy an annual tax sufficient to meet all obligations against this fund when due, unless otherwise provided for.

2. A library fund for the support of the public library. Into this fund shall be paid all gifts or devices made for the support of such library. All claims against this fund shall be paid only on orders of the library board, signed by the president and secretary.

3. A public utility fund or funds for the acquisition, construction, extension, maintenance, and operation of any public utility

owned or operated by the City, including the payment of the interest on any bonds or other indebtedness which may be a lien upon such utility. There shall be paid into this fund all moneys derived from the sale of bonds issued on account of any utility, and from the operation of such utility, and from the sale of any property acquired for or used in connection with any such utility. There shall be paid out of this fund the cost of the purchase, construction, extension, operation, maintenance and repair of such utility, including the interest upon all bonds or other indebtedness which may be a lien upon such utility. Any surplus in said fund may be used for the purchase of any bonds or certificates of indebtedness issued against said utility, and for the payment of such bonds or other indebtedness upon their maturity. Separate funds and accounts shall be kept for each such utility operated separately, and in case two or more utilities are operated together the funds and accounts shall be kept separately as far as practicable. All claims against this fund shall be paid only on orders of the water, light and power commission, and signed by the president and secretary.

In the event of a sale of a public utility or of a surplus arising in this fund not needed for the maintenance or repair of any public utility the council may transfer the proceeds of such sale or such surplus, or any part thereof to any other fund, but no such transfer shall be made of the funds arising from the sale of any bonds issued on account of any utility.

4. A general fund for the support of such other funds and for the payment of such expense of the City as the council may deem proper. Into this fund shall be paid all moneys not herein provided to be paid into any other fund, including sums derived from fees or licenses imposed on owners of vehicles.

5. A permanent improvement revolving fund, which shall not be supported by general taxation. There shall be paid into this fund moneys received on special assessments heretofore or hereafter levied by the City for local improvements. The council may by resolution determine the aggregate amount of the assessments for local improvements which, in its judgment, shall be extended for payment, as is provided in Chapter VII of this charter, but in no case shall such aggregate amount exceed eighty per cent of the total estimated cost of such improvement, and order the issuance and sale of extended assessment certificates representing such aggregate sum, which shall entitle the holder thereof, to demand and receive from the City of Wabasha, upon surrender of such certificates to the treasurer on or after the date of payment thereof, the amount of money named therein to be paid, with the rate of interest stipulated to be paid thereon to the due date thereof and not after such date. Such certificates may be issued in such amounts and become due on such dates as the council may determine, but none of the same shall be payable more than five years from date of the same. The proceeds of the sale of said certificates shall be

paid into the permanent improvement revolving fund. Said certificates shall bear a rate of interest not exceeding six per cent per annum. The council may, in its discretion, either sell said certificates direct to investors, or may contract for the sale of all such certificates, that may be issued during any calendar year. No sale of such certificates, by contract, shall be made except after advertising for bids, at least one week prior to sale in the official newspaper of the City, and such sales shall be made to the highest responsible bidder. Bids may be asked on the basis of a rate of interest specified in the proposals and on the net interest basis on which the bidder will pay par for the same.

SEC. 51. *All Receipts to go to the City Treasurer.* All receipts of money belonging to the City or any branch thereof, excepting only those funds collected by the county treasurer, shall be paid into the city treasurer by the person authorized to receive the same at the close of each business day. Any person in the employ of the City guilty of a violation of this provision shall be liable to be reduced in rank and salary or be dismissed from his office or position, as the council may determine after a hearing.

SEC. 52. *Accounts and Reports.* The city clerk shall be the chief accounting officer of the City and every branch thereof, and shall have authority to prescribe and enforce proper accounting methods, forms, blanks, and other devices consistent with law, this charter and ordinances in accord with it. He shall submit to the council, whenever called upon, a statement showing the amount of money in the custody of the city treasurer; the status of all funds, the amount spent or chargeable against each of the annual budget allowances and the balance left in each, and such other information about the finances of the City as the council may require. Once each year, on or before the last day of March, the city clerk shall submit a report to the council covering the entire financial operation of the city for the past year. This report shall show the actual total receipts and actual total expenditures, omitting duplications, and stating the cash balance at the beginning of the last fiscal year and at the close; the total outlays for operation and maintenance, and the total capital outlays; the condition of each of the funds; the total receipts by sources and the total expenditures by general purposes; the total outstanding bonds and debts of the City, when due, the amount of new bonds issued and the amount redeemed, the interest rate of each; the condition of all the annual budget allowances; and an inventory of all the property owned by the City; and such further information as the council and other City officials and the tax-payers should know.

#### CHAPTER VII.

##### LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS.

SECTION 53. *Contract or Day Labor.* The City of Wabasha, acting through the council, shall have power to lay and construct,

extend relay and repair, directly by day labor, or by contract, pavements, curb and gutter, sidewalks, sewers, water mains, electric conduits and any and all other local improvements, in or under the streets, alleys, and public places in the City. The City shall also have power, under the conditions herein specified, to provide for the payment of the whole, or any part thereof of the cost of any such improvement by a special assessment upon the property specially benefitted thereby. The amount assessed to the property specially benefitted, to pay for such local improvements authorized by this section, shall not exceed the amount of benefits received by such property.

SEC. 54. *White Way.* The council may, by a majority vote, order the construction, extension or repair of any sidewalk, sewer or the installation upon the streets of the City of a system of ornamental street lights or lamps, known as "White Way," or the sprinkling of any highway, which it deems necessary for public convenience or safety, and may cause the cost of such construction or installation or sprinkling, or any portion of such cost, to be assessed against the property specially benefitted thereby.

SEC. 55. *Property Owners Petition.* The council may, upon petition of not less than fifty per cent of the owners of the real estate to be assessed therefor, or upon the petition of the owners of not less than fifty per cent of the real estate to be assessed therefor, as shown by the records in the office of the Register of Deeds of Wabasha County, cause to be made any improvement authorized by law, or by this charter, to be made by the City, and thereupon assess the cost of such improvement, or any portion thereof, against the property specially benefitted by such improvement.

SEC. 56. *Street Intersections.* The cost of grading, paving and otherwise improving the intersections of streets, avenues and alleys with other streets, avenues and alleys, and the cost of construction and maintenance of all bridges in this city which are not chargeable to any railway company, or the county of Wabasha, shall be paid by general taxation, and no assessments for benefits for any such improvements shall ever be made, and the City is also authorized to construct and maintain at public expense a sidewalk connecting Block 28 with Block 84 in said City.

SEC. 57. *Appeal from Assessment.* Any party interested in any property assessed under this chapter may appeal from such assessment to the District Court of Wabasha County, within thirty days after the publication of the notice of confirmation thereof by the council. Such appeal is hereby declared to be the exclusive way in which such assessment can be in any wise revised, modified, amended or annulled.

SEC. 58. *Notice of Appeal.* Said appeal shall be made by filing a written notice with the city clerk, stating the party appeals

to the District Court from the assessment, and containing a description of the property of the appellant so assessed, and the objection of the appellant to the assessment, and by filing with the clerk of the District Court within ten days thereafter, a copy of the notice of appeal. In case of an appeal, the council shall cause a copy of the assessment roll to be made and filed with the clerk of the District Court within ten days from the time of the service of the notice of appeal. In case the return so made to the District Court shall in any respect be defective, or insufficient, the court may require a further and fuller return to be made. The cause shall be entered by the clerk of the District Court in the name of the person taking the appeal against the City as an "Appeal from Assessments," and it may be brought on for hearing by either party, the same as other causes in the District Court.

SEC. 59. *Trial of Assessment Appeal.* Such appeal shall be tried by the District Court, without a jury, at a general or a special term, without pleadings other than as above stated. Upon such trial the appellant can make no other objections to the assessment than those stated in his notice of appeal, but the court may, in its discretion, permit such notice to be amended in this respect at any time. The court shall hear such competent evidence as may be offered by either party, and may revise, correct, amend, reduce or confirm the assessment appealed from, or may order a new assessment to be made as to the property concerning which such appeal is taken, and in that event shall direct the council how to make such new assessment so as to avoid errors complained of. The assessment roll shall, when confirmed by the council, in all cases, whether on an appeal, or otherwise, and in all courts, be prima facie evidence of the validity of all proceedings up to, and including the confirmation of the assessment. Disbursements, but no costs, may, in the discretion of the District Court, be allowed upon an appeal from assessments as in other civil cases, but the judgment entered therefor against the City shall be a separate judgment and paid out of the general fund of the City. From the determination of such appeal by the District Court, either party may appeal to the Supreme Court of the State.

SEC. 60. *Re-assessments.* If an assessment shall be set aside by the District Court for any cause, jurisdictional or otherwise, the council shall proceed in like manner as herein required in relation to the first assessment. Provided, however, that if the assessment as to any parcel of land shall not be appealed from or shall not have been set aside by the court, the council, in any subsequent assessment or re-assessment, may omit the pieces or parcels of land as to which the first assessment shall have been paid. As often as an assessment, or re-assessment, against a piece or parcel of real estate, assessed for any local improvement, is set aside, the same shall be re-assessed until said property shall have paid its

proper proportionate share of the benefits accruing from said improvement.

SEC. 61. *Plan of Assessments.* Whenever the council shall determine to make any local improvements, the cost of which may lawfully be assessed against benefitted property, it shall determine and designate in a general way the character and extent of such improvement and the materials to be used, and thereupon it shall order a careful estimate to be made by a competent person of the cost of such improvement, together with a list of the several lots and parcels of land fronting upon and adjacent to such proposed improvement which he deems benefitted thereby, and the names of the owners of the several parcels, as nearly as can be ascertained.

After receiving such estimates the council shall determine what property will be benefitted by such local improvement and shall thereupon publish at least once in the official paper of the City a list of all such property, with the names of the owners so far as the same can be ascertained, or in lieu of such list, a designation of the benefitted district by giving the boundaries thereof, together with a notice of the time and place when and where all persons interested may appear and be heard by the council with respect to benefits and to the proportion of the cost of the improvement to be assessed against their property.

If the council determines to proceed with such improvement, it shall estimate and fix the cost thereof and shall assess and levy such proportion or amount of such cost upon benefitted property in proportion as it may deem the same benefitted; and for such purpose shall adopt an assessment roll in such forms as it may determine, and fix the time when payments may be made. The lien of such assessment shall attach to all property assessed as of date of the adoption of assessment roll by the council.

SEC. 62. *Payment of Assessments.* As soon as the council has adopted the assessment roll the city clerk shall divide ninety per cent of each assessment in excess of ten dollars per seven thousand square feet, except the sprinkling assessments, into nine equal parts, as nearly as may be and shall, in proper books to be kept by him, extend the same in proper columns in such manner that such ninety per cent of such assessments shall be extended over nine successive years after the year in which the assessment shall have been made, leaving the balance thereof to be spread in the tenth year, as hereinafter provided. Such assessments shall be paid in ten annual installments, with interest to be paid annually on each installment, after the first, at the rate of six per cent. The first nine installments may be paid with interest to date only at any time after the first installment is due, and the tenth after it has been determined, or the full assessment with the interest to date may be so paid.

If the assessment against any parcel of land does not exceed ten dollars per seven thousand square feet, then ninety per cent

of such assessment shall become due within the time fixed by the council and the remainder, if any, after the completion of the improvements as herein provided.

After the completion of any improvement for which a special assessment has been levied, the city clerk shall forthwith make a report to the council, showing the actual cost thereof and the proportion chargeable to each parcel of land benefitted and assessed. The city clerk shall thereupon deduct from the actual cost of the improvement to each parcel of land, as shown by such report, the aggregate amount of the nine installments theretofore spread against the same, comprising ninety per cent of the assessment, as above provided, and shall then spread the remainder, if any, as the tenth installment of the assessment so made against each parcel of land. In case the ninety per cent has been spread against any parcel of land as a single installment, the remainder, ascertained in like manner if any, shall be spread as the second installment and be payable within the time fixed by the council. All assessments for street sprinkling shall be paid as the council may determine. Assessments for local improvements shall be paid to the city treasurer.

SEC. 63. *Penalty for Delinquency.* Each assessment or installment not paid within the time fixed for payment by the council shall be deemed delinquent and a ten per cent penalty shall be added.

SEC. 64. *Certified to Auditor.* In each year the council shall cause to be made a certified statement of the several pieces of land against which assessments have been made and are delinquent, describing the land affected and giving the amount of the assessment with penalties added, which certified statement shall be filed with the county auditor of Wabasha County, on or before the tenth of October each year. It shall be the duty of the county auditor to extend the assessments with penalties, as shown by such certified statement, upon the tax rolls of the county for taxes of the particular year in which the assessment is filed and the same, for each year ending October fifteenth, shall be carried into the tax becoming due and payable in January of the following year and shall be enforced and collected in the manner provided for the enforcement and collection of state and county taxes under and in accordance with the provisions of the general laws of the state, except that in court proceedings to enforce the collection of taxes, no defense as to the validity of any such assessments shall be permitted. Such assessment, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes for state and county purposes under the general laws of the state.

SEC. 65. *County Treasurer Collector for City.* All assessments with penalties and interest thereon paid to the county treasurer shall belong to the City of Wabasha, and shall be turned over to

the city treasurer in the manner provided in this charter and by law.

SEC. 66. *Public Service Companies Not Exempt.* Every public utility franchise granted under this charter shall contain a provision requiring the owner or operator of such franchise to be subject to assessments for local improvements as other owners of property and to comply with all the provisions of this chapter. Every public service company in this City shall be liable to assessments for local improvements and be subject to all the provisions of this chapter as other owners of property, whether the franchise contains such provision or not.

SEC. 67. *Sidewalks.* It is hereby made the duty of all owners of land adjoining any street, lane or alley in said city to construct and maintain in good repair such sidewalks along the side of the street, lane or alley next to the lands of such owners respectively as may have been heretofore constructed or as shall hereafter be constructed or directed by the common council to be built, and of such material and width, and upon such place and grade as the common council may by ordinance or otherwise prescribe. Whenever the common council shall deem it necessary that any sidewalk in the City of Wabasha shall be constructed or reconstructed it shall by resolution direct such construction or reconstruction, specifying the width thereof and the material of which the same is to be constructed. The publication of such resolutions once in the official paper of the city shall be sufficient notice to the owners of the land along which such sidewalk is to be built, to construct the same, and unless such owners shall each, along his respective land, construct and fully complete such sidewalks within four (4) weeks after the publication of such resolution, as aforesaid, the common council shall forthwith proceed to ascertain the expense of constructing the same and assess and levy such expense upon and against each lot and parcel of land upon which such sidewalks shall front. Such assessment shall be collected in the same way in all things as is provided for the collection of special assessments under the provisions of this charter; and the common council may, either before or after making such assessment, cause such portion of such sidewalks as have not been built by the owners of such land fronting upon the same and all street crossings to be built by the street commissioner or upon contract, or by any other person as the council may determine.

#### CHAPTER VIII.

##### EMINENT DOMAIN.

SECTION 68. *Power to Acquire Property.* The City of Wabasha is hereby empowered to acquire, by purchase, 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, and the fact that the property so needed has been acquired by the owner under the power of eminent domain, or is already devoted to public use, shall not prevent its acquisition by the City. 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 the City has the money in its treasury to pay for the same or unless provision for paying for the property proposed to be acquired has been made by vote of the people.

SEC. 69. *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 resolution, 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 chapter.

SEC. 70. *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 of six per cent per annum 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.

SEC. 71. *City May Abandon Proceedings.* The City, by resolution 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 at any time within thirty days after final determination thereof, may abandon such proceedings as to all or any parcel of the property sought to be acquired and shall pay all costs thereof.

SEC. 72. *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 in condemnation or other body assessing the damages.

SEC. 73. *Public Utility, How Sold.* No public utility, except ferry owned by the City, whether acquired prior to the adoption of this charter or thereafter, shall be sold, leased or otherwise disposed of by the City, unless the full terms of the proposition of said sale or other disposition thereof, together with the price to be paid therefor, shall have been published in the official paper of the City once a week for four weeks, before final action of the council, and be submitted to a vote of the people for ratification or rejection at a special election called for that purpose or at the next general municipal election, and ratified by at least a majority vote of the electors voting thereon, provided that the ferry may be leased by the council as by this charter otherwise provided.

SEC. 74. *Easements; How Acquired.* Easements for slopes, fills, sewers, building lines poles, wires, pneumatic tubes, pipes and conduits for water, gas, heat, and power may be acquired by proceedings to be conducted by the council in the manner provided by Chapter 194 of the General Laws of Minnesota for the year 1903, enabling municipalities to establish and acquire a building line easement along streets, highways, parks and parkways. Such easements may also be acquired by the City in the same manner to be assigned or leased to any public service corporation which is furnishing to the City or its inhabitants water, light, heat or power or gas.

#### CHAPTER IX.

##### FRANCHISES.

SECTION 75. *Franchise Defined.* The word "franchise," as used in this chapter, shall be construed to mean any special privilege granted for the purpose of profit to any person, co-partnership or corporation in, over, upon or under any of the highways or public places of the City of Wabasha, whether such privilege has been, or shall hereafter be granted by the City, or by the State of Minnesota. The terms public service corporation, co-partnership, or person as used in this chapter, shall be construed to mean any person or corporation exercising any franchise within the City of Wabasha, except those operating steam railroads.

SEC. 76. *Franchise Ordinances.* The council may, by ordinance adopted by the affirmative vote of a five-sevenths majority of all its members, grant rights in, over, upon or under any highway or public place for the purpose of constructing or operating street and other railways or for telephoning, or telegraphing or transmitting electricity, or transporting by pneumatic tubes, or furnishing to the City or its inhabitants, or any portion thereof, water, light, heat or power, or for any other purpose, but subject always to the limitation and conditions in this chapter prescribed.



SEC. 77. *Term Limited.* No perpetual franchise shall ever be granted, nor shall any franchise be granted for a longer term than twenty-five years.

SEC. 78. *Publication of Franchise.* Every ordinance granting any franchise shall contain all the terms and conditions of the franchise and shall be published verbatim in the official paper of the City at least once a week for two successive weeks after its passage and shall take effect thirty days after its last or final publication and acceptance by the grantee.

SEC. 79. *Power of Regulation Reserved.* The City of Wabasha shall have the right and power to reasonably regulate the exercise by any person, co-partnership or corporation of any franchise, whether such franchise has been, or shall hereafter be granted by the City of Wabasha or by the State.

SEC. 80. *Council to Fix Charges.* The council may regulate and control, by ordinance, the maximum price to be charged by any corporation or person exercising any franchise for the service rendered by it to the City and to any other person or corporation but such price shall be fair and reasonable to such public service corporation or person and to the public. When any person or corporation against whom any order is directed under the provisions of this section shall deem such order to be unjust and unreasonable, he or it may test its justice or reasonableness by proper action in the courts, commenced within thirty days after the service of such order, and in such action such order shall be entered in the premises as shall be warranted by the facts developed upon the trial and the law applicable thereto.

SEC. 81. *Conditions in Every Franchise.* Every franchise, which does not contain the provisions prescribed in this section shall be absolutely void and incapable of ratification by estoppel or otherwise. Every franchise shall contain a provision:

1. That the grantee shall be subject to and will perform on its part all the terms of Section 80 and 81 of this charter.

2. That the council shall have the right:

(a) To hear and determine what are just, fair and reasonable rates, fares, and charges for public service, and to order that only reasonable charges shall be imposed, and to make effective such order by penalties and forfeitures. The granting of a franchise shall not be deemed to confer any right to include in the charges for service any return upon the value of the franchise or grant.

(b) To require reasonable extensions of any public service system.

(c) To make such rules and regulations as may be required to secure adequate and proper service, and to provide sufficient accommodations for the public.

3. That the grantee shall not issue any capital stock on account of the franchise, or the value thereof, and that the grantee shall

have no right to receive, upon condemnation proceedings brought by the City to acquire the public utility using such franchise, any return on account of the franchise, or its value.

4. That no sale or lease of said franchise shall be effective until the assignee or lessee shall have filed in the office of the city clerk an instrument, duly executed, reciting the fact of such sale or lease, accepting the terms of the franchise, and agreeing to perform all the conditions required by the grantee. The assignee or lessee shall also file a bond in such amount and with such conditions as the council may require, which bond shall run to the City as obligee, with sureties satisfactory to the council, and shall obligate the grantee, or lessee to discharge all obligations and liabilities imposed by said franchise.

5. Every franchise granted for the erection of poles or masts on or along the highways, or other public places of the City, for the conduct of electricity, or for any telegraph or telephone purpose, shall also contain a provision that the council may require the placing under ground, or in any other safe or convenient position or manner of wires carrying electricity, and wires for other purposes, but in case the council shall require the placing under ground of any such wires or the moving thereof in such a manner as to entail a substantial expense to any public service corporation, co-partnership or person operating in the city, such added expense shall be duly taken into account in the fixing of the rates for the service rendered by such corporation, co-partnership or person.

6. Every franchise and every extension or renewal of such franchise shall contain a provision for its acceptance in writing by the grantee within thirty days after its passage by the council. No such franchise shall be binding upon the City until its acceptance by the grantee. Such acceptance shall be construed to be an acceptance of and consent to all the terms, conditions and limitations contained in the ordinance granting the franchise, as well as of the provision of this charter.

The violation by the owner or operator of any franchise of any of the express provisions prescribed by this section shall be cause for forfeiture of the franchise by resolution of the council.

When any person or corporation against whom any order for forfeiture of franchise is directed under the provisions of this section shall deem such order to be unwarranted, unjust or unreasonable, he or it may test its justice or reasonableness by proper action in the courts commenced within thirty days after the service of such order, and in such action such order shall be entered in the premises either sustaining, modifying or vacating the order made by the council as shall be warranted by the facts developed upon the trial and the law applicable thereto.

SEC. 82. *Farther Limitations.* The enumeration and specification of particular matters, which must be included in every fran-

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or renewal or extension of any franchise, shall not be construed to impair the right of the City to insert in such franchises other and further conditions and restrictions as the council deem proper to protect the City's interest, nor shall any thing added in this charter limit any right or power possessed by the ever existing franchises.

### CHAPTER X.

#### PUBLIC UTILITIES.

SECTION 83. *Commission of Three.* There shall be created in the City of Wabasha, a water, light and power commission, composed of three commissioners, with powers and duties as herein provided.

SEC. 84. *Appointment of Commissioners.* The commission shall be appointed by the common council of the City. When first one commissioner shall be appointed for one year, one for two years, and one for three years, and thereafter each commissioner shall be appointed for a three year term, except that vacancies shall be filled for the unexpired term, only. Each commissioner shall take the oath prescribed by law before assuming the duties of office and shall continue in office until his successor has been elected and qualified. No such commissioner shall be a member of the common council.

SEC. 85. *President.* The commissioner serving for the last year of the term for which he was appointed, shall serve as president of the commission during that year.

SEC. 86. *Exclusive Power.* The water, light and power commission shall have full and exclusive control of, and power over the water, light and power plant or plants, and all parts, attachments and appurtenances thereto, and all apparatus and material used in operating such plants, including all the necessary public buildings.

The commission shall have power and authority to operate the plant or plants, to make necessary extensions, and improvements and to do any and all things necessary for the economical operation of the same. Provided, however, if such extensions, improvements or repairs shall require the issuance of bonds, then at that event, the commission shall make application to the council for the issuance of the bonds deemed necessary, subject to the provisions of Chapter VI of this charter.

The commission shall have no power or authority to sell, lease, or in any way dispose of or encumber the plant or plants under its control, or suffer or permit such property or any part of it to be under the control of any private person or corporation whatsoever. The commission shall have power to buy materials, employ all necessary help, and make necessary extensions, improvements, changes and repairs in the plants and building under

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their charge, either directly by day labor, or by contract. They shall have authority to buy fuel, equipment and supplies and employ the help necessary to operate such plants. They shall fix the compensation of all their employees, which shall be paid out of the public utility fund, but shall themselves receive no salaries.

SEC. 87. *Finances.* The commission may make contracts with private persons, companies or corporations for furnishing water, light, heat, and power. They may prescribe the time and manner in which payments for all such services shall be made. The manner in which water and electric current shall be computed, or measured, shall be by meter only, and the commission may fix the time in which the same may be used for certain purposes. They may prescribe penalties for the violation of rules and regulations of the commission.

The commission shall employ a secretary, who shall keep an accurate record of its proceedings, and who shall keep a complete system of accounts, showing all the financial operations of the commission and the finances of each of the utilities or plants under their charge. All the papers, books, records and accounts of the commission shall be public records and be open to the inspection of the public at any time.

The commission shall prescribe the manner of, and the person by whom all water and light rentals shall be collected. All moneys received by the commission or any of its employees shall be turned over to the city treasurer forthwith and be deposited by him in the proper fund. The city treasurer shall pay no money out of the public utility fund except on an order of the commission, signed by the president and secretary, stating on its face the person to whom it is to be paid and accompanied by a proper bill and voucher.

The commission shall pay into the city treasury annually, to be credited to the public utility fund, an amount equal to ten per cent of gross receipts of the light and power plant, to be invested by him in interest-bearing certificates of deposit, which sum, together with accumulated interest, is to be available only for the replacement of the plant or machinery, but not for repairs or additional machinery. Provided, however, when such sum equals seventy-five per cent of the original investment, the surplus may be available for other public utility purposes.

SEC. 88. *City to Pay for Service.* The commission shall make a reasonable charge, based on the cost of service, for lighting the streets and public buildings, and a reasonable hydrant rental for supplying the City with water. Such rentals for light, power, and water service shall be collected in the same manner as are the rentals from other patrons, unless the council and the commission agree upon some other plan.

SEC. 89. *Surplus Funds.* The surplus derived from the operation of the light and power plant, after setting aside the

sums above specified for interest and replacement, may be placed to the credit of the water works or be turned into the sinking fund, or the general fund of the City, as the commission shall determine. The accounts of the commission shall be kept so as to show at all times the earnings of each of the plants under its care, and all transfers of sums ordered.

SEC. 90. *Official Bonds* The secretary and all other employees of the commission entrusted with the collection or handling of funds shall furnish a good and sufficient bond in an amount to be fixed by the commission, with at least two sureties, acceptable to the commission. Such bonds shall be deposited with the city treasurer.

SEC. 91. *Annual Report.* The commission shall at the close of each fiscal year make a report showing the financial operations for the past year, the status of all its accounts, an inventory of all the property in its care, and the results accomplished by its management. Such report shall be published in the official paper and a copy filed with the city clerk. The commission shall furnish a condensed statement showing the financial condition of each of the utilities or plants in its charge, at least quarterly, or as often as the council may require. All such reports shall be promptly made and filed with the city clerk.

## CHAPTER XI.

### MISCELLANEOUS. THE FERRY.

SECTION 92. The City of Wabasha shall have the right to operate and maintain a ferry across the Mississippi River from any part of said City to the State of Wisconsin, and for said purpose shall have the right to hold, take and acquire any and all rights and franchises for the maintaining and operating of such ferry now owned by any other persons; and upon the expiration of such rights, franchises and privileges as may have been heretofore granted to any other persons, there is hereby granted to the City of Wabasha in its corporate capacity the exclusive right and privilege of establishing, keeping, operating and maintaining a ferry or ferries across the Mississippi River from any point in said city to that portion of the State of Wisconsin which lies opposite, perpetually, with full power to construct or purchase all necessary or convenient boats, vessels, machinery, docks, piers, ferry houses and other appurtenances to such business.

SEC. 93. The Common Council shall have the right and power to lease said ferry, and any and all appliances connected therewith upon such terms as it may determine, by resolution duly passed by a five-sevenths majority of such council.

SEC. 94. The Common Council may by ordinance, containing suitable penalties, prohibit the maintenance or operation by any

person or persons other than the agents of said City or its lessee or lessees of any ferry across the said river from any point in the City of Wabasha to any point in the State of Wisconsin.

SEC. 95. The City of Wabasha shall have the right and authority to construct, keep and maintain or to aid in constructing, keeping and maintaining any wagon road or roads in the State of Wisconsin leading to and terminating at said ferry landing or at any point opposite to the corporate limits to said City of Wabasha, with full power to construct all necessary and convenient bridges, culverts, piling and docks, and to render said road passable and easy for travel.

### THE PARK BOARD.

SECTION 96. The City Council shall, at its regular meeting held on the third Tuesday in April following the taking effect of this charter appoint a Park Board from among the residents of this City. Such Board shall consist of three members. One member shall be appointed for a term ending on the third Tuesday of April next after such appointment, one for a term ending one year after the third Tuesday of April next after such appointment, and one for a term ending two years after the third Tuesday of April next after such appointment, and thereafter annually at the regular meeting of said council held on the third Tuesday of April the council shall fill the vacancy in said board caused by the expiration of the term of one of the members of said board by appointing a member on said board to serve for the next ensuing three years.

SEC. 97. Such Park Board shall have general charge and jurisdiction over the public parks of the City, but shall not incur any indebtedness without first receiving from the council authority to do so. Such Park Board shall at all times be subject to the direction of the Council.

SEC. 98. *Charter a Public Act.* This charter of the City of Wabasha shall be a public act and need not be pleaded nor proved in any case. It shall take effect thirty days from and after its adoption by the voters of the City.

SEC. 99. *Oath of Office.* Every elected or appointed officer of the City shall, before assuming his official duties, appear before the city clerk and take and subscribe the oath of office prescribed by law, and file the same with the city clerk. Every officer of the City shall hold over until his successor has been elected or appointed and duly qualified.

SEC. 100. *Official Bonds.* The city clerk shall furnish, before assuming the duties of his office a good and sufficient bond in a sum to be annually fixed by the council, and sufficient to amply protect the City, for the faithful performance of his duties.

Such official bonds shall be approved by the council and the mayor, and shall be furnished either by persons of good financial standing or by surety companies authorized to do business in this state, whose books are at all times open to inspection by any properly authorized person or any officer of the City. All such official bonds shall be approved by the city attorney as to form, and filed in the office of the city clerk, the cost of such bonds shall be paid by the City.

SEC. 101. *City Officers Not to Accept Favors or Contracts.* No officer or employee of the City shall solicit or receive any pay, commission, money or things of value, or derive any benefit, profit, or advantage, directly or indirectly, 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. 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 to continue in office or employment of the City and he shall be removed therefrom.

Any contract with the City in which any officer or employee of the City is, or becomes, directly or indirectly interested personally, or as a member of a firm, or as an officer, or director of a corporation, shall be and become void; and any money which shall have been paid on such contract by the City may be recovered from any or all the persons interested therein by a joint or several action.

SEC. 102. *Contracts; How Let.* In all cases of work to be done by contract, or of the purchase of property of any kind, when the amount involved is more than five hundred dollars, unless the council, by an emergency resolution, shall provide otherwise, it shall advertise for bids in the official paper of the City. Contracts shall be let to the lowest responsible bidder who offers to furnish the article desired for the lowest sum. The council may, however, reject any and all bids; and nothing contained herein shall prevent the City from contracting for the doing of work with patented processes, or from purchasing patented appliances. The council shall regulate the making of bids and letting of contracts by ordinance.

SEC. 103. *Contracts; How Executed.* All written contracts, bonds and instruments of every kind and description, to which the City shall be a party, except as herein otherwise provided, shall be executed in the name of the City by the mayor, and shall be attested by the city clerk.

SEC. 104. *Official Publication.* The council shall annually provide, by resolution, for the publication of all matters required to be published, and shall annually designate a newspaper of general circulation in the City as the official paper in which all such publications shall be made.

SEC. 105. *Statutes Not Affected by Charter.* All acts now existing or hereafter enacted relating to the municipal court shall not be affected by this charter.

All general laws and statutes of the state applicable to cities of the fourth class, not inconsistent with the provisions of this charter, shall apply to the City of Wabasha, and shall be construed as supplementary to the provisions of this charter.

All acts or parts of acts giving the City authority and powers to be exercised outside of the city limits are hereby expressly retained.

SEC. 106. *Existing Ordinances, Continued.* All ordinances, and all departmental and board rules and regulations, not inconsistent with the provisions of this charter, and in force when this charter takes effect, are hereby continued in full force and effect until amended or repealed.

SEC. 107. *Pending Condemnations and Assessments.* Any condemnation or assessment proceeding in progress when this charter takes effect shall be continued and completed under the laws or charter provision under which such proceedings were begun.

All assessments made by the City prior to the time when this charter goes into effect shall be collected and the lien thereof enforced in the same manner as if this charter had not been adopted.

SEC. 108. *Vacation of Streets.* The council shall have exclusive power, by ordinance passed by five-sevenths majority vote, to vacate or discontinue streets and alleys within the City. A record thereof shall be made in the office of the Register of Deeds of Wabasha County. Such vacation may be made on such terms and by such procedure as the council may, by ordinance, and upon due notice to all interested parties, prescribe.

SEC. 109. *City Property Not Lost by Adverse Possession.* No right, title, estate or easement of the City in any property shall be lost by adverse possession or occupancy, and no statute of limitations shall operate against the City in favor of any person occupying any public property or highway, whether such highway shall have been improved or not.

SEC. 110. *Damage Suits.* No action shall be maintained against the City on account of any injuries or damages to persons or property, unless such action shall be commenced within one year from the occurrence of such injury or damage, nor unless notice shall have been given in writing to the city clerk within thirty days of the occurrence of such injury or damage, stating

the time when and the specific place where and the circumstances under which the same occurred, and that the person injured or damaged will claim damages of the City therefor; but such notice shall not be required when the person injured shall in consequence thereof be bereft of reason.

SEC. 111. *Recovery of Judgment for Damages.* If any judgment shall be recovered in any action against the City for any injury or damage caused by any obstruction, excavation, opening or defect in any street or alley or public ground caused or occasioned by the act or omission of any person or corporation the City shall have the right to recover the amount of any such judgment from the person or corporation so responsible for such obstruction, excavation, opening, or defect.

SEC. 112. *Ordinances to Make Charter Effective.* The council shall by ordinance make such regulations as may be necessary to carry out and make effective the provisions of this charter.

SEC. 113. *When Elected Officials Take Office.* All elective officers who are in office when this charter takes effect shall continue in office until the term for which they were elected expires. All officers elected under this charter shall enter upon their respective duties at twelve o'clock noon on the third Tuesday in April following their election and qualification.

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MAR 1 1921

*William G. ...*

Secretary of State