

**VILLAGE  
OFFICERS**

J. N. EDWARDS,  
PRESIDENT

O. T. JORGENSEN,  
I. A. FRANCIS,  
JOHN McSHANE,  
COUNCILMEN

T. S. BRONNICHE,  
TREASURER

**The Village of Benson.**

**H. J. Crooks, Clerk.**

Regular Meetings First Monday of Each Month.

Benson, Minn., March 27th 1908.

Hon. Secretary of State,

St. Paul, Minn.

Dear Sir:-

Under the provisions of Section 36, Article 4, of the  
~~Statutes of 1905~~ Section 755 Statutes of 1905, I enclose herein the New Home  
Rule Charter of the City of Benson, together with the  
to its adoption. Kindly file the same in your office according to law.

Yours truly,

*J. N. Edwards*  
Village President.

2393

CERTIFICATE OF INCORPORATION OF THE CITY OF BENSON.

State of Minnesota )  
                          ) ss.  
County of Swift     )

I do hereby certify and return that at a special election held at the Town hall in the Village of Benson, Swift county, Minnesota, on the 26th day of March, 1908 to vote upon the adoption of a home-rule city charter, the following number of votes were cast for and against the said proposition as canvassed by the board of said election, to-wit:

There were <sup>+</sup> cast in favor of said charter- - - - - 164 votes.

There were cast against said charter- - - - - 50 votes.

I further certify that the attached copy of the charter of the City of Benson is an exact copy of the charter that was submitted to the voters at the election above described.

Dated March 10th 1908.

*J. Edwards*  
President of Village Council  
Benson, Minnesota.

Attest  
*H. Brooks*  
Village Clerk

# The Benson Charter

## CHAPTER I.

### NAME, POWER AND BOUNDARIES.

#### Name and Powers.

Section 1. All that district of country, in the County of Swift and State of Minnesota contained within the limits and boundaries hereinafter described, and all the people now inhabiting, and those who shall hereafter inhabit, the said district, shall be a municipal corporation by the name of City of Benson, and by that name may sue and be sued, plead and be impeached in any court or tribunal; have perpetual succession; make and use a common seal, and alter it at pleasure; take, hold, purchase, lease and convey all such real, personal and mixed property within or without the limits of said district as the purposes of the corporation may require, or the transaction or exigencies of its business may render convenient; shall be capable of contracting and being contracted with, and shall have all the general powers possessed by municipal corporations at common law and, in addition thereto, all the powers granted to it under the general laws of the State of Minnesota, or by this charter.

#### Boundaries.

Sec. 2. The district of country constituting the City of Benson shall include all the territory now constituting the Village of Benson, being the following territory, situated in the County of Swift and the State of Minnesota, to-wit: the west half of section five (5), all of section six (6), except that part of the southwest quarter of the southeast quarter (sw $\frac{1}{4}$  of se $\frac{1}{4}$ ) not included in Alsaker's First Addition to the Village of Benson; the north half of the northwest quarter (nw $\frac{1}{4}$ ) of section eight (8) and blocks number one (1), eight (8) and nine (9) of the South Side Addition to the Village of Benson, according to the recorded plat of the same of record in the office of the Register of Deeds for said Swift County and all being in Township number one hundred twenty-one (121) of Range thirty-nine (39), West 5th P. M.

#### Succession.

Sec. 3. When this charter takes effect, the City of Benson shall be and become the legal successor of the Village of Benson under its former charter, and shall be vested with all the rights and immunities formerly vested in said Village, except as herein otherwise provided, and all ordinances existing at the time of its adoption shall be in full force and effect until repealed. All property, property rights and interest of every kind and nature, formerly vested in the said Village of Benson, shall, when this charter takes effect be and become vested in the City of Benson, under this charter, and all previously existing indebtedness, obligations and liabilities of said Village of Benson, together with interest accrued, or to accrue, thereon, shall be assumed and paid by the City of Benson.

## CHAPTER II.

### OFFICERS AND ELECTIONS.

#### Elective Officers.

#### Appointive Officers.

Section 4. The elective officers of the said City of Benson shall be a Mayor, and Treasurer, Two Justices of the Peace and four Aldermen. The appointive officers of the said City shall be an Attorney, Three members of the Board of Health, Three members of the Water and Light Board, Three Park Commissioners, a Chief of Police, a Clerk, an Assessor, a Constable, and such other officers and boards as may be hereinafter provided. The appointment of an Attorney shall be optional with the City Council.

#### Term of Office.

Sec. 2. The term of office of all said officers shall be one year, except as hereinafter otherwise provided. The term of office of alderman shall be two years, except that at the first election after the adoption of this charter, two aldermen shall be elected for one year, and two for two years, and thereafter two aldermen shall be elected each year. The term of the Justices of the Peace shall be two years. All officers shall hold their respective offices until their successors are elected and qualified.

#### Powers Under This Charter.

Sec. 3. From and after the time when this charter shall go into effect the various officers of the City of Benson, whether then in office or subsequently elected or appointed shall exercise and be vested with such powers and functions only, as are specified and granted in this charter as to their respective offices.

#### Time of Elections.

Sec. 4. There shall be a city election for electing such officers of said city as are herein or otherwise by law made elective on the first Tuesday in April, 1908, and thereafter a city election shall be held on the first Tuesday in April of each year.

#### Vacancies—How Filled.

Sec. 5. Whenever any vacancy shall occur in any elective office of said city, such vacancy shall be filled by appointment by the City Council, and such incumbent so appointed shall hold his office until the next succeeding election, and until his successor is elected and qualified. Vacancies in appointive offices shall be filled by the Mayor, with confirmation by the Council.

#### Election Laws.

Sec. 6. All general laws of the State of Minnesota, relating to elections and the preliminaries thereto, shall so far as applicable apply to and govern all elections under this charter and are hereby adopted as a part of this charter as though herein specifically re-enacted. Within one week after any election under this charter the City Council of said city shall meet and canvass the returns thereof, and declare the result as it appears from such returns and the City Clerk shall forthwith give notice to the officers elected of their respective elections. The City Council may pass ordinances not inconsistent with the general laws of the State and the provisions of this charter for conducting and regulating city elections and the preliminaries thereof and the canvassing of the votes thereof. Provided that at the first election under this charter the votes shall be canvassed and the results announced as herein provided by the Village Council of the present Village of Benson, and the Clerk thereof shall forthwith give notice to the officers elected of their respective elections.

#### Special Elections.

Sec. 7. The City Council may by resolution adopted by the affirmative vote of three-fourths of its members, order a special election of the voters of the city and provide for holding the same. The purpose of such special election shall be clearly stated in such resolution and notice of such election and no other matter shall be submitted thereat.

#### Plurality and Equality.

Sec. 8. A plurality of votes for elective officers shall constitute an election. When two or more persons shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the City Council at such time and place, and in such manner as it may direct.

#### Commencement of Term of Office.

Sec. 9. The term of office of each officer elected under this charter shall commence on the second Monday of April of the year in which he was elected and shall continue until his successor is elected and qualified.

#### Appointment.

Sec. 10. All officers, who, under this charter, are to be appointed, shall be appointed by the Mayor and confirmed by an affirmative vote of a majority of all the members of the City Council.

#### Removals.

Sec. 11. Any elective officer under this charter may be removed from his office by the affirmative vote of three-fourths of all the members of the City Council, and no such officer shall be removed except for cause, nor unless he has first been furnished with a copy of the charges against him and has had reasonable opportunity to be heard in person or by counsel in his own defense. Continued absence without reasonable excuse therefor from three consecutive regular meetings by an alderman and neglect of duty by an elective officer of the city shall be deemed sufficient cause for removal from office. The City Council shall have the power to fix the time and place of trial of such officer, who shall be given at least ten days notice thereof, to arrange the mode of trial, to compel the attendance of witnesses and the production of papers, to administer oaths and to hear the proofs and arguments. If such officer shall neglect after due notice to make answer to such charges, the same shall be cause for removal without further notice. The Mayor shall have power to suspend any appointive officer, for a period not to exceed ten days, at his pleasure and without showing cause, and to appoint a successor for the term of such suspension. The Mayor shall have power to remove any appointive officer, by and with the consent of a majority of the members of the City Council. But no appointive officer shall be so removed except for cause, nor unless furnished with a written statement of the charges against him, or until he shall have reasonable opportunity to be heard in defense.

#### Abandonment of Office.

Sec. 12. Any elective or appointive officer, changing his residence from the city, and any elective or appointive officer who shall refuse or without cause neglect to qualify and enter upon the discharge of the duties of his office for ten days after being notified by the City Clerk of his election or appointment, shall be deemed to have vacated or abandoned such office.

#### Resignation.

Sec. 13. Any elective or appointive of-

ficer under this charter, having entered upon the duties of his office, may resign the same, by and with the consent of the City Council.

#### Officers to Qualify.

Sec. 14. Every person elected or appointed to any office under this charter shall, before he enters upon the duties of his office and within ten days after his election or appointment, take and subscribe an oath of office and file the same with the City Clerk.

#### Eligibility.

Sec. 15. No person shall be eligible to any office under this charter, who was not, at the time of his election or appointment to such office, a qualified voter of the City of Benson.

#### Transfers.

Sec. 16. Every elective and appointive officer, shall, at the expiration of his term of office, in whatever way terminated, turn over to the City, or his successor in office, on demand, all books, papers, records, files, moneys, and other things whatsoever pertaining to his office.

## CHAPTER III.

### DUTIES OF OFFICERS.

#### Powers of Mayor.

Section 1. The Mayor shall be the chief magistrate of the city, and shall take care that the laws of the State and ordinances of the city are duly observed and enforced within the city, and that all other executive officers of the city discharge their respective duties. He shall preside at all meetings of the City Council, but shall have no vote except in case of a tie. He shall from time to time give the City Council such information and recommend such measures as he may deem advantageous to the city. He shall be the head of the police force of the city, and shall appoint all police officers and watchmen, except when otherwise provided for; and in case of riot or other necessity he may appoint as many special policemen as he may deem necessary, and any police officer appointed by the Mayor as aforesaid, may be discharged from office by him whenever in his opinion the welfare of the city may demand it, or a reduction of their numbers renders it necessary or advisable. Provided, however, that such special policemen shall not be continued in service for more than five days without the consent of the City Council.

#### Veto Power.

Sec. 2. All ordinances and resolutions shall, before they take effect, be presented to the Mayor, and if he approve thereof he shall sign the same; and such as he shall not approve he shall return to the City Council with his objections thereon, depositing the same with the City Clerk to be presented to the City Council at their next meeting thereafter; and upon the return of any resolution or ordinance by the Mayor, the vote by which the same was passed may be reconsidered, and if, after such reconsideration, the City Council shall pass the same, by a vote of three-fourths of the members elected, it shall have the same effect as if approved by the Mayor; and in such case the vote shall be by yeas and nays, which shall be entered in the record by the City Clerk. If any ordinance or resolution shall not be returned by the Mayor within five days (Sunday excepted) after it shall have been presented to him, the same shall have the same effect as if approved by him.

#### Duties of President.

Sec. 3. At the first meeting of the City Council in each year they shall proceed to elect by ballot from their number a president. During the absence of the Mayor from the city, or his inability from any cause to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of the Mayor. In case the Mayor shall be absent from any meeting of the City Council, the president shall act as presiding officer for the time being, and discharge the duties of said Mayor. The president of the City Council or temporary presiding officer, while performing the duties of Mayor, shall be styled acting Mayor, and the acts performed by him while acting as Mayor as aforesaid shall have the same force and validity as if performed by the Mayor. The Mayor and the president of the City Council shall have the right to administer oaths and affirmations.

#### City Clerk.

Sec. 4. There shall be a clerk of said City, styled the City Clerk, who shall keep his office at the place of meeting of the City Council or at such other place convenient thereto as the City Council may determine. He shall keep the corporate seal and all papers and records of the City, and keep a record of the proceedings of the City Council, at whose meetings it shall be his duty to attend. Copies of all papers filed in his office and transcripts from all records of the City Council, certified by him under the corporate seal, shall be evidence in all courts as if the originals were produced. He shall draw and countersign all orders on the Treasurer, in pursuance of any order or resolution of the City Council, and keep a full and accurate account thereof in books provided for that purpose. The City Clerk shall have power to administer oaths and affirmations.

#### Report of City Clerk.

Sec. 5. It shall be the duty of the City Clerk to report to the City Council the financial condition of the City, whenever the Council shall require, and at least once every three months. He shall make and keep a list of outstanding bonds, to whom issued, for what purpose, when and where payable, and the rate of interest they respectively bear, and recommend such action to the City Council as will secure the punctual payment of the principal and interest of such bonds. He shall report annually to the City Council Ten days previous to the annual election, an estimate of the expenses of the City, and likewise the revenue necessary to be raised for the current year.

#### Countersigning Contracts and Keeping Accurate Accounts.

Sec. 6. The City Clerk shall countersign all contracts made in behalf of the City, and certificates of work authorized by any committee of the City Council or by any City officer. And every contract made in behalf of the City to which the City is a party shall be void unless signed by the Clerk. The Clerk shall keep regular books of account in such form as the City Council shall prescribe, in which he shall enter all the indebtedness of the City, and which shall at all times show the precise financial condition of the City, the amount of bonds, orders, certificates or other evidence of the indebtedness, which have been redeemed, and the amount of each outstanding. He shall countersign all bonds, orders or other evidence of indebtedness of the City, and keep accurate accounts thereof. He shall keep accurate accounts with all receiving and disbursing officers of the City, showing the amount they have received from the different sources of revenue, and the amount they have disbursed under the direction of the City Council; he shall keep a list of all certificates issued for work or any other purpose, and before the levying by the City Council of any special tax, shall report to the City Council a schedule of all the lots or parcels of land which may be subject to the proposed special tax or assessment. This schedule shall be certified by the affidavit of the Clerk and shall be prima facie evidence of the facts therein stated, in all cases wherein the validity of such special tax or assessment shall come in question. The Council shall, if from such report they deem such special tax legal and just, cause the same to be levied in pursuance of the provisions of this charter. The Clerk shall examine all reports, books, papers, vouchers and accounts of the City Treasurer, and from time to time shall perform such other duties as the City Council may direct. All claims and demands against the City, before they are allowed by the City Council, shall be examined and filed by the Clerk, and he shall keep a record of all his acts and doings and keep a book, with index thereto, in which he shall enter all contracts. Such record shall be open to the inspection of all parties interested. He shall not be interested, directly or indirectly, in any contract or job to which the City is a party. And any such contracts in which he may be interested shall be null and void.

#### Deputy-Clerk.

Sec. 7. The City Council may, when deemed necessary, appoint, upon the nomination of the Clerk, a Deputy-clerk, for such period as may be deemed necessary. Whenever the Clerk and Deputy-clerk are absent, or are for any reason unable to act, the Council may appoint a clerk pro tempore and said clerk so appointed, as well as the Deputy-clerk, when acting as City Clerk, shall have the same powers, and be subject to the same restrictions and liabilities, as the City Clerk. The compensation of said Deputy-clerk shall be paid by the City Clerk and not by the City.

#### City Attorney.

Sec. 8. The City Attorney shall be the legal advisor of the City and shall perform all services incident to that office. He shall appear in and conduct civil suits, prosecutions and proceedings, in which the City shall be directly or indirectly interested, and take charge of and conduct all prosecutions for the violations of all ordinances and resolutions of the City, and for the violation of any provisions of this charter. He shall, when requested, furnish a written opinion upon any subject submitted to him by the City Council, or the Mayor or any officer of said City in respect to their official duties or municipal affairs. No person shall be eligible for appointment as Attorney unless he be regularly admitted to practice as an Attorney in all the Courts of the State.

#### City Treasurer.

Sec. 9. The City Treasurer shall receive and safely keep all money belong-

ing or accruing to the City, including taxes, license money, and fines, and keep an accurate and detailed account thereof, in such manner as the City Council shall from time to time direct. The Treasurer shall furnish to the City Council, at least Fifteen days before the annual election, or sooner, if required by them, a full and detailed account of the receipts and expenditures from the date of the last annual report, and also of the state of the treasury, which account shall be filed with the Clerk. He shall also report to the City Council as it may require. Such treasurer shall receive a salary to be fixed by the City Council.

#### Chief of Police.

Sec. 10. There shall be a Chief of Police of said City, who shall be appointed by the Mayor, and confirmed by an affirmative vote of a majority of all the members of the City Council, and who shall perform such duties as shall be prescribed by the Mayor for the preservation of the public peace. All policemen and watchmen of said City shall possess the powers of constables at common law, or by the laws of this state, and it shall be their duty to execute and serve any warrant, process, commitment, or writ whatsoever issued by the Justice of the Peace for any violation of the laws of the State of Minnesota, or the ordinances or resolutions of said City, and any writ or process whatever issued by the Justice of the Peace in civil actions, and they shall have authority to pursue and arrest any person fleeing from justice in any part of the State, and when performing the duty of constable aforesaid, shall be entitled to the fees prescribed by statute. The Chief of Police shall keep such records and make such reports as the Council may require.

#### Street Commissioner.

Sec. 11. The Street Commissioner under the direction and control of the Mayor, shall have the supervision of the construction, maintaining and repairing of side-walks and of the grading, maintaining, repairing and cleaning of all streets, alleys and other public places within the City, and he shall be required to execute a bond with sureties satisfactory to the Mayor and City Council, conditioned for the faithful performance of his duties, and that he will account for all moneys collected, or received by him in his official capacity or belonging to the City, and shall make monthly written reports to the Mayor and City Council of work done, cost of same, money expended and for what purpose; and he shall report to the Mayor and Council the amount of all tools, belonging to the City, in his custody, once a year and at any other time, when so requested. Said City Council may, however, in its discretion, dispense with a Street Commissioner and provide that the duties of such office be performed by a Street Committee appointed from its own members.

#### City Assessor.

Sec. 12. The City Assessor shall perform all the duties required of such officers by the general laws of the State, and have all the power, rights and privileges granted by the same to assessors.

#### Board of Equalization.

Sec. 13. The City Council of said City shall elect a committee, consisting of Three of its members, which shall constitute a Board of Equalization, who shall be sworn according to law as such a board, and meet at the council room in said City on the fourth Monday of June of each year, and at such time, and from day to day thereafter as they may adjourn, such board shall proceed to advise, amend and equalize the assessment on the roll of said assessor. It shall be the duty of the Assessor to be present at all such meetings of said Board of Equalization, to present before the Board the facts relating to the assessment. Such Board of Equalization is vested with all the powers which are or may be vested in County Boards of Equalization under the general law of the State so far as applicable.

#### Courts of the Justices of the Peace.

Sec. 14. The Justices of the Peace of the City shall enter into the discharge of their duties on the second Monday of April after their election, and they shall have and possess all the authority, powers, rights and jurisdiction that Justices of the Peace have or hereafter may possess, who are elected under the general laws of the State of Minnesota, and be subject to all the penalties under such laws. They shall, in addition thereto, have authority and jurisdiction to hear, try and determine all complaints for the violation of any provision of this charter and of any ordinance, resolution, by-law, rule or regulation made or adopted under or by virtue thereof; and of all cases cognizable by a Justice of the Peace, in which the City is a party, and of all suits, prosecutions and proceedings for the recovery of any fine, forfeiture or any penalty under any ordinance, resolution, by-law or regulation of this City, or its charter.

in all prosecutions for any violation of the provisions of this charter, or any ordinance, resolution, by-law or regulation adopted under or by virtue hereof, said Justices of the Peace may proceed to the trial and determination thereof, in a summary manner, without the aid of a jury. In all proceedings before Justices of the Peace authorized by this charter, and in all civil proceedings before such Justices, the same forms and proceedings shall be had and used, where not otherwise directed, as are established and required to be had and used in criminal and civil actions, by the general laws of the State before Justices of the Peace; and appeals from the judgment and decisions of said Justices of the Peace of the City, shall be allowed and taken, in all respects as provided by law for appeals from Justices of the Peace under State laws.

In all cases of conviction, either under the State law or ordinances of the City, for assault, battery or affray, breach of the peace, disorderly conduct, keeping or frequenting houses of ill fame, and keeping or maintaining disorderly or ill-governed houses, said Justices of the Peace shall have power, in addition to the fine or penalty imposed, to compel the offender to give security, in a sum not exceeding Five Hundred Dollars, for their good behavior and to keep the peace, for a period not exceeding Six months.

All fines and penalties, imposed by the Justices of the Peace of this City, shall belong to and be turned into the Treasury of the City. The Justices of the Peace shall, quarterly, or oftener, if required by the Council, report to the Council all proceedings instituted and shall, at the same time, account for and pay over to the Treasurer all fines collected or received by them belonging to the City, and said Justices of the Peace shall be entitled to receive, from the County of Swift, such fees in criminal cases where the State is a party, as are allowed by statute to other Justices of the Peace for similar services, and they shall be entitled to receive from the City of Benson such fees in cases where the City is a party as Justices of the Peace are entitled by law to tax up and receive from said County in similar cases, except in cases where such fees are collected from the defendant by said Justices.

#### Constable.

Sec. 15. The City Constable shall have all the powers and duties conferred by the general laws of the State of Minnesota upon township Constables, and all the powers and duties of Constables under the common law and shall receive like fees.

#### Salaries.

Sec. 16. No salary or compensation for their services as such officers shall be paid to the Mayor, Aldermen, nor member of any board created by this charter, except the Health officer of the Board of Health, and except members of the Board of Equalization while so acting. The salary of the Treasurer shall not exceed the sum of Fifty Dollars per annum. The Justices of the Peace and Constable shall receive as compensation only such fees as are allowed by law.

#### Other Officers. Duties.

Sec. 17. The Mayor shall have power at any time to require other and further duties to be performed by any officer whose duties are herein prescribed, not inconsistent with this charter and, with the consent of a majority of the members of the City Council, to appoint such other officers as may be necessary to carry into effect the provisions of this charter, and to prescribe their duties, unless otherwise provided for; but no officer, elected, or appointed by the Mayor, with confirmation of Council, as heretofore provided, shall be appointed for a longer term than One year, unless otherwise herein specially provided, and until his successor is elected or appointed, and duly qualified. The City Council shall have the power, unless herein otherwise provided, to fix the compensation of all officers elected or appointed under this charter, who may be entitled to compensation, and such compensation shall be fixed by resolution, and in regard to all officers created by this charter, the compensation shall be fixed within Three months from the first organization and meeting of the Council. After the first year the compensation of officers shall be fixed for the fiscal year in the month of April, except for such officers as may hereafter be created, in regard to which the compensation shall be fixed at the time of the creation of such office. Nor shall the compensation of any officer, after having been fixed, be increased or diminished during the term for which said officer was elected or appointed. No officer elected or appointed to office under the provisions of this charter, shall be a party to, or interested in, any contract in which the city is interested, made while such officer is holding office.

#### Peace Officers.

Sec. 18. The Mayor or acting Mayor, Clerk, and each Alderman, the Justices of the Peace, Police officers and Watch-

men shall be officers of the Peace with power of constables at common law, and may command the peace, suppress in a summary manner all rioting and disorderly behavior within the limits of the City, and for such purposes may command the assistance of bystanders, and if need be, of all the citizens and military companies, and if any person, bystander, military officer, noncommissioned officer or private shall refuse to aid in maintaining the peace, when so required, such person shall forfeit and pay a fine, on conviction thereof, not exceeding Fifty dollars, or by imprisonment not to exceed Thirty days, and in cases where the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present in the order mentioned in this section, shall direct the proceedings.

#### Official Bonds.

Sec. 10. The City Treasurer, City Clerk and Chief of Police and such other officers as the City Council may direct, shall severally before entering upon the duties of their respective offices, execute to the City a bond, with at least Two sureties (to be approved by the City Council), who shall make affidavit that they are each worth a penalty specified in said bond over and above all debts, exemptions and liabilities; or the said officers may furnish the bond of a surety company, (to be approved by the City Council) and said bond shall contain such penal sum and such conditions as the City Council may deem proper, and the City Council may from time to time require new or additional bonds and remove from office any officer refusing or neglecting to give the same.

### CHAPTER IV.

#### CITY COUNCIL.

##### General Powers.

Section 1. The legislative power and authority of the City of Benson shall be vested in the City Council, composed of the Aldermen elected as in this charter provided.

##### Meetings.

Sec. 2. The City Council shall determine the time of its regular meetings, and provide for special meetings and may prescribe rules for its proceedings not inconsistent with this charter. The Mayor may, or, upon written request of two Aldermen, shall call special meetings of the City Council by giving written notices to each of its members, to be delivered personally, or left at his usual place of abode, and no business shall be transacted at any special meetings, unless the subject of the same shall have been specified in said written notice.

##### Quorum.

Sec. 3. A majority of the members of the City Council shall constitute a quorum, but less than a majority may adjourn from time to time, and a minority as well as a majority may compel the attendance of the absent members.

##### Canvassing Votes.

Sec. 4. The City Council shall be judges of the election and qualification of its members.

##### Ordinances and Resolutions.

Sec. 5. Every legislative act of the City Council shall be by ordinance or resolution. The style of all ordinances shall be: "The City Council of the City of Benson ordains." No ordinance or resolution, except for general appropriations, shall contain more than one subject, which shall be expressed in the title, and no ordinance or resolution shall be amended after its introduction so as to change its original subject or purpose.

##### Reading and Usage.

Sec. 6. An affirmative vote of at least a majority of all members of the City Council shall be required to enact any ordinance or resolution, which shall be taken by yeas and nays, and be entered in its journal. It shall forthwith be presented by the City Clerk to the Mayor for his approval as herein provided. No ordinance, resolution, proposed ordinance, or proposed resolution shall be reconsidered, except at the same or the next regular meeting after its adoption or rejection, and not in such case, unless there are then present at least as many members of the City Council as were present when said ordinance or resolution was adopted or rejected. No ordinance shall be introduced except at a regular meeting, at which meeting it shall have its first reading. Its second reading, except by unanimous consent, shall be had at a subsequent regular or adjourned regular meeting, occurring not less than One week after its first reading, and such ordinance shall not be amended after the meeting at which it receives its second reading, except by the unanimous consent. It shall receive its third reading and may be passed only at a regular or adjourned regular meeting occurring at least One week subsequent to the time of its second reading. No ordinance shall be passed until it has had Three readings. Every ordinance shall be published once in the official newspaper of the City before it takes effect. Proof of such publication shall be by affidavit of one of the printers, publishers or the foreman of such newspaper, which shall be prima facie evidence of the legal passage of such ordinance or resolution in all courts of this State, or elsewhere.

##### Failure to Vote.

Sec. 7. Any member of the City Council, who, being present when his name is called, fails to vote on any pending proposition, shall be counted as having voted in the negative.

##### Two-thirds Vote.

Sec. 8. Every ordinance, order or resolution appropriating money creating any liability of the City, awarding or approving of any contract for the payment of money, ordering any condemnation of private property or the making of any public improvements, shall require a three-fourths vote of all the members of the City Council; provided, that this section shall not apply to the payment of the ordinary bills, hereinafter provided for.

##### Disqualification.

Sec. 9. Except as in this charter otherwise provided, no member of the City Council shall, during the time for which he is elected, be eligible to any other elective or appointive office of the City.

##### Funds and Accounts.

Sec. 10. The City Council may designate the depositories for, and disposition of, the funds of the City, and by resolution approve all bonds given for the safe keeping thereof, and it shall examine and audit the accounts of all city officers.

##### Supervision of Public Property.

Sec. 11. The City Council shall have the care, control and supervision of all public buildings and grounds of the City, the care and supervision of which are not by this charter vested in any board or officer of the City.

##### Opening, Vacating and Improving Streets.

Sec. 12. The City Council shall have exclusive power to open, vacate, alter and improve the streets, public grounds, alleys, and highways of the City as in this charter provided, and shall have and maintain the active care, supervision and control of all public highways, bridges, streets, alleys and public grounds within the limits of the City.

##### Public Buildings.

Sec. 13. The City Council shall have power by a Three-fourths vote of all the members thereof to erect, provide for, improve and repair all public buildings and works together with such appurtenances, accessories, apparatus and equipments in connection therewith, as may be necessary for the transaction of the business of the City, either within or without its limits; and to acquire, by purchase, gift or condemnation, all lands necessary as sites for said buildings or works to be used in connection therewith; and to acquire by purchase, gift or condemnation, real property for municipal purposes, and to sell or authorize the sale of any of said property.

##### Plats.

Sec. 14. The City Council shall have the sole power to accept and approve plats of additions to the City, and to prescribe the location and width of streets and alleys required in said additions, and no plat shall be filed without its approval.

##### Appointments.

Sec. 15. The confirmation by the Council of any officer of the City, appointed by the Mayor, shall require the affirmative vote of a majority of its members, taken by ballot and recorded by the Clerk.

##### Revocation of License.

Sec. 16. Any license issued by authority of the City Council may be revoked by the Mayor and a majority of the City Council, at any time, for sufficient cause, and, upon conviction of any person holding a license, before a Justice of the Peace of the City of Benson, for a violation of the provisions of any ordinance relating to the exercise of a right granted by such license, the City Council may revoke such license, in addition to the penalties provided by law or ordinance for such violation.

##### Punishments.

Sec. 17. The City Council may impose any punishment for the breach of any ordinance of the City to the extent of a fine not exceeding One Hundred dollars or imprisonment in the County jail or any other place of detention maintained by the City, not exceeding Ninety days, and may provide that such punishment shall be cumulative for an indefinite term, not exceeding Ninety days, subject to suspension or termination by reason of or during good behavior of the person imprisoned, and offenders against such ordinance may be required to give security to keep the peace and for good behavior for a period not exceeding Six months, in a sum not exceeding Five Hundred dollars. The City Council may further provide by ordinance that any person, convicted of any offense, before a Justice of the Peace of the City, subjecting said person to imprisonment under the ordinance of the City, may be kept at hard labor during the term of such imprisonment, at the place of confinement or upon the public improvements of the city,

and the City Council shall have full power to establish by ordinance all needful regulations for the security of said persons and to prevent their escape and secure proper discipline.

##### Compilations.

Sec. 18. The City Council may, from time to time, provide for the compilation and publication of the charter, ordinances of the City, rules of the City Council and such other reports and regulations of the City Council and such statutes of the State as it may designate, and may provide for the distribution, sale or disposal of copies of such compilation or publication. Such publication so issued, purporting on the title page to have been published by the authority of the City Council and to contain the ordinances of the City, or other matter in this section above mentioned, shall be prima facie evidence of their contents in all courts of this State, and, in absence of evidence to the contrary, all ordinances, rules, regulations and resolutions found therein shall be presumed to have been duly and legally passed and adopted. Copies, duly certified by the City Clerk, of ordinances, rules, regulations and resolutions, or other papers in his official custody, or of any records kept by him in his official capacity, shall also be admitted as prima facie evidence of their contents in all courts of this State. All courts of this City shall take judicial notice of all ordinances duly passed by the City Council.

##### Witnesses.

Sec. 19. The City Council, and any of its committees authorized by it so to do, shall have the power to compel the attendance of witnesses and the production of books, papers and other evidence at any of its meetings, or before such committees, and for that purpose may issue subpoenas or attachments, in any case of inquiry or investigation, to be signed by its president or the chairman of such committee, as the case may be, which shall be served and executed by any officer or person authorized by law to serve subpoenas or any other process.

##### Specific Powers.

Sec. 20. The City Council, except as in this charter otherwise provided, shall have the general management and control of the finances and all the property of the City, and shall have full power and authority to make, amend or repeal all such ordinances and resolutions as it shall deem expedient for the government and good order of the city, for the protection of the public and the public health, comfort and safety, for the suppression of vice and intemperance and for the prevention of crime. It shall have power and authority to declare and impose penalties and punishments for the violation of ordinances and resolutions, and to enforce the same against any person who may violate the same; and all such ordinances and resolutions, not inconsistent with the constitution and laws of this State, nor of the United States, are hereby declared to have the full force of law. For these purposes the City Council shall have specific authority by ordinance:

1st. To regulate the use of, and to prevent and remove encroachments into, upon or over streets, alleys, avenues, public grounds, public places, public streams and waters, and to prevent injury thereto, and prohibit the improper use thereof.

2nd. To regulate and prevent the throwing or disposing of ashes, paper, refuse, offal, dirt garbage or any other offensive matter or obstruction, in or upon any street, alley, public ground, place or public stream or waters.

3d. To require the owner or occupant of any premises to keep the sidewalks along or in front of these same free from obstructions and to remove snow, dirt, or rubbish therefrom, and to authorize the removal thereof at the expense of such owner or occupant and to assess the cost of such removal against said premises.

4th. To regulate the making and maintaining of openings and excavations, in the streets, alleys, public grounds and public places, for the laying of gas and water mains and pipes, construction subways and conduits, and for other purposes; and to regulate the building and maintaining of sewers, tunnels and drains, and the construction and use of all structures and conduits of every kind, underneath the streets, alleys, sidewalks, public grounds and places of the City, and to regulate, and, if it is deemed necessary, to prohibit the construction and maintaining of coalholes, manholes, hatchways, and other openings in sidewalks, streets and alleys and the coverings and guards thereof.

5th. To require throughout the City or such district or districts as the Council may designate, the owner or occupant of any premises to collect, remove, and dispose of, ashes, swill, offal, refuse, garbage, manure, dead animals, night-soil, and other vile, unhealthy or offensive matter; to regulate and provide for the collection, removal and disposition, either at the expense of the City or of such owner or occupant.

6th. To provide for, and regulate the construction and use of pavements, sidewalks, curbs and gutters.

7th. To regulate and prevent the use of streets, alleys, sidewalks, and public grounds for signs, sign posts, awnings, awning-posts, telegraph, telephone and electric poles, horse troughs, racks and other obstructions, the posting and distributing of hand bills and advertisements; to remove and abate any nuisance, obstruction or encroachment upon the walks, streets, alleys, and public grounds, and regulate and prevent the encumbering of the same with vehicles, boxes, lumber, or any other things; to provide for and regulate the erection of hitching posts and rings for fastening horses, and to prohibit the same in any portion of the City.

8th. To regulate and prohibit the exhibition or carrying of banners; painting, posting, distributing, or placing of placards, advertisements, hand-bills, or other articles upon telegraph, telephone or electric light poles or in or upon streets, alleys, sidewalks and public places.

9th. To regulate and prevent the flying of flags, banners and signs across or over the streets, alleys and public places, and to regulate, license or prohibit the construction and use of bill boards and signs adjacent to or near the streets, alleys and public places, or upon any vacant lot or other property.

10th. To regulate and prohibit traffic and sales upon the streets, sidewalks and public places.

11th. To regulate the speed of horses and other animals, bicycles, cars, locomotives, automobiles and other vehicles within the limits of the City, and to compel persons to fasten their horses or other animals attached to vehicles, or otherwise while standing in the streets, alleys or public places.

12th. To regulate and prescribe the maximum weight of a load to be drawn over any bridge or street in the City, and to direct upon what streets heavily loaded vehicles or traction engines may be drawn or propelled and from what streets, bridges, alleys and public places the same may be excluded.

13th. To name, and change the names of streets, alleys and other public places.

14th. To regulate and prohibit the use of all bridges, drains, sewers, privies and cess-pools within the City, or in such portions of the City, as it may designate, and to compel sewer connections in such portions and to make the same, and to assess the cost thereof on the property so connected.

15th. To regulate the numbering of houses, buildings and lots.

16th. To provide for and change the location, grade and crossing of any railroad, and to require railroad companies to lower and bridge over or raise their tracks, and to pay all damages caused thereby, and to fence their respective rights of way, or any portion of the same, and construct cattle guards and to keep the same in repair within the limits of the City.

17th. To require railroad companies to keep flagmen and erect and maintain gates at railroad crossings of streets or public places, and to regulate and prohibit the obstruction of streets, alleys, and other public places by railroad trains, cars or engines.

18th. To require the railroad companies to raise or lower their tracks to conform to any grade which has been or hereafter may be established in said City, and to keep such tracks on a level with the street surface, and to compel the planing or paving of said tracks by such railroad companies so that they may be crossed at any place on a street, alley or public place.

19th. To require railroad companies to make and keep open and in repair ditches, drains, sewers and culverts, and under their railroad tracks, so as not to impede natural drainage and so that stagnant or filthy water may not stand on their grounds or right of way.

20th. To prevent the pollution of the waters of any creek, river, pond or water-course within or adjacent to the City; to prevent the dumping of refuse or other matter therein, or on the banks thereof, and to provide for the cleansing and purification of water and water-courses, and the drainage or filling of ponds or pools on private property, when necessary to abate or prevent a nuisance, and to compel the owner of any grounds, where water is liable to collect and become stagnant, to fill or drain such low places and, upon his failure so to do, to authorize such drainage or filling and to assess the cost thereof upon such ground.

21st. To regulate and prevent the cutting of ice in waters in, or adjacent to, the City, and to compel the erection of fences around all ice cuttings, and

to prevent the sale of impure ice within the City.

22nd. To fix the amount, terms and manner of issuing licenses, not inconsistent with law, and subject to the provisions of this charter; provided, that no license shall be issued for more than one year.

23d. To license, regulate or prohibit billiards, pool and pigeon-hole tables, pin alleys, bowling alleys and shooting galleries.

24th. To license and regulate fire, auction and bankrupt sales, itinerant merchants and transient vendors of merchandise.

25th. To license, regulate or prohibit caravans, menageries, circuses, street exhibitions and all places of amusement.

26th. To license and regulate auctioneers, pawnbrokers, second-hand dealers and junk dealers; and to compel all such persons to keep such records of their transactions as it shall direct.

27th. To license and regulate peddlers, street hawkers, clairvoyants, fortune-tellers and astrologers.

28th. To license and regulate hackmen, draymen, expressmen, porters, and all other persons or corporations engaged in carrying passengers, baggage or freight; and to regulate their charges therefor and to provide standing places or stations on the streets, or near railway stations, where the same may remain, while waiting for business, and to prohibit the same from standing or waiting for business at any other than the place prescribed.

29th. To license and regulate breweries and to prohibit their erection in or near any portion of the City which it may designate.

30th. To license and regulate plumbers, and to regulate sewer, water and street connections of all kinds.

31st. To prohibit the carrying of concealed weapons, and to provide for the confiscation of the same.

32d. To license and regulate the keeping of dogs, and to prevent their running at large.

33d. To regulate and prohibit the storage, and use of, gun powder, dry-pitch, resin, coal oil, benzine, naphtha, gasoline, turpentine, gun-cotton, nitro-glycerine, and any products thereof, and other combustible or explosive materials within the City, and of lights in stables, shops and other places, and of the buildings of bon-fires. To regulate and prohibit the sale and use of fire works and fire-arms.

34th. To prohibit, punish and suppress riots, routs, affrays, disturbances, disorderly assemblies, cock-fights, dog-fights, sparring matches and all brutal or degrading exhibitions.

35th. To prohibit and punish vagrants, mendicants, street beggars and prostitutes, and to regulate bathing and swimming, in waters within the City limits, and to prevent and punish drunkenness, fighting, assaults, batteries, disorderly conduct and obscenity within the City; and to prohibit within the City the circulation, sale or exhibition of libelous, obscene and immoral publications, prints, pictures, advertisements, illustrations, and printed or pictured matter tending to provoke a breach of the peace, or impair the morals of the community.

36th. To prohibit and suppress bawdy and disorderly houses, and houses of ill fame and assignation, and all immoral resorts.

37th. To prohibit lotteries and gift enterprises, and to prevent all description of gambling and playing dice, hazard, roulette or other games of chance; the use of black-boards, lists, tickets, or price quotations for the purpose of betting or gambling; to prohibit all pool rooms, bucket shops and betting rooms, and the selling of pools and making of books on horse races or other contests, real or fictitious; to suppress and prohibit all mechanism and other devices used for gambling or betting; to prohibit all fraudulent practices and the use of fraudulent devices, and to authorize the destruction of all instruments used for the purpose of betting, gambling or other unlawful purposes.

38th. To establish pounds and pound districts, which shall be under the supervision and control of a single pound master; to restrain the running at large, or staking out of, horses, mules, cattle, swine, sheep, poultry and other animals, to regulate or prohibit the driving of cattle in the public streets, alleys or public places; and to authorize the distraint and sale of the same.

39th. To establish, license or regulate markets and market houses. To provide for the inspection of, and to regulate the making and sale of, bread, and prescribe the weight and quality of the bread in the loaf, and provide for the seizure and forfeiture of bread baked contrary thereto.

40th. To provide for and regulate the inspection of meats, poultry, fish, game, butter, cheese, lard, eggs, vegetables, flour, meal, milk, fruits, and other products, and to provide for the taking, and summarily destroying of, any such products as are unsound, spoiled or unwholesome; and to regulate and prevent the bringing into the City, and the having or keeping of such unsound, or unwholesome product.

41st. To provide for, and regulate, the place and manner of weighing hay and straw, and selling the same, and measuring and selling fire wood, coal and lime.

42d. To provide for the inspection and sealing of all weights and measures, and to enforce the keeping and use, by vendors, of proper weights and measures duly accepted and sealed.

43rd. To regulate the height, construction and materials of all buildings, chimneys, stacks and other structures; to prevent the erection or maintenance of insecure or unsafe buildings, walls, stacks, chimneys or other structures and to provide for their summary abatement or destruction; to prescribe the material and methods of construction of foundations and foundation walls, the manner of construction and location of drains and sewer pipes, the thickness, materials and construction of party walls, partitions and outside walls, the size and material of floor beams, girders, piers, columns, roofs, chimney flues, and heating apparatus; to regulate the construction of bath rooms, water closets, privies and vaults; to prohibit the construction of buildings and structures not conforming to such regulations, and to direct the suspension at any time of any such building as does not conform to such regulations.

44th. To prescribe the fire limits, within which buildings or structures of wood or other material not fire proof shall not be erected or placed, and to direct that any building within such fire limits, when damaged by fire, decay or otherwise, to the extent of Fifty per cent of its value, shall be torn down and removed, and to prescribe the manner of ascertaining such percentage, and to provide for requiring the owners of buildings or other structures, which have been destroyed or partially destroyed, or have become dangerous by fire or otherwise, to take the same or any part thereof down, and in case of refusal or neglect of said owner to take the same down, when ordered by the City Council, then to cause the same to be done, at the expense of the owner and to assess the cost thereof upon the land upon which such building or structure stood.

45th. To require the owners or lessees of buildings or structures to place thereon such fire escapes and appliances for the protection of life and property, and for extinguishment of fires as it may direct.

46th. To prevent the construction, and to cause the removal of dangerous chimneys, fire places, hearths, stoves, stove-pipes, ovens, boilers and apparatus used in or about any building or structure; to regulate the carrying on of manufacturers liable to cause fires; to prevent the depositing of ashes or the accumulation of shavings, rubbish, or other combustible materials in unsafe places, and to make provisions to guard against fires.

47th. To regulate the operation of blasts and blastings, and the construction, location and operation of derricks, windlasses, freight and passenger elevators and other structures, apparatus and operations hazardous to life and property.

48th. To define what shall constitute a nuisance, and to abate the same, and to impose fines upon persons who may create, continue or suffer nuisances to exist.

49th. To provide for, and compel, the reporting and recording of all births and deaths within the City.

50th. To regulate the burial of the dead within the City and to regulate and determine the time and manner in which bodies, which have been placed in a vault or any other place, for the purpose of burial, may be removed, and to regulate and control the location of cemeteries, and to cause the removal of bodies interred contrary to law.

51st. To regulate the location, construction and management of stockyards, slaughter houses, packing houses, rendering establishments, tallow chandleries, storing houses for hides, bone or glue houses, gas works, soap factories, dye houses, tanneries, sausage manufactories, and other noisome business within the limits of the City.

52d. To prohibit offensive or unwholesome business or establishments within the limits of the City.

53d. To compel the owner of any soap and tallow chandlery, sausage manufactory, pig sty, privy, or other unwholesome or noxious house or place, to cleanse, abate, or remove the same.

54th. To regulate the location of lumber yards, and places for piling timber, wood, and other combustible materials, and the manner of piling the same, and to require any person maintaining any lumber, shingle or lath piles, or wood yards in the City to remove the same.

when they become dangerous to building structures or other property.

55th. To regulate and prevent the playing of games or any other amusements on the streets, alleys, sidewalks, or public places, and to regulate the use of bicycles and other vehicles thereon.

56th. To regulate and prevent the ringing of bells and chimes, the blowing of whistles, beating of drums, and the making of other noises.

57th. To establish and regulate City hospitals or pest houses, and to make all regulations which may be necessary and expedient for the preservation of health, and the suppression of disease, and make regulations to prevent the introduction of contagious, infectious, or other diseases into the City, and to make quarantine laws, and to enforce the same within the City, and to regulate, control, and prevent the landing of persons, baggage, merchandise or other property from cars or other conveyances infected with contagious diseases, and to make such disposition of such persons or property as to preserve the health of said City, and to prevent infected cars or other conveyances from coming within or near the limits of the City.

58th. To establish and regulate the public wells, cisterns, hydrants, reservoirs, fountains, and watering troughs.

59th. To regulate and control the quality and measurement of gas, and to prescribe and enforce rules and regulations for the manufacture and sale of gas, and to provide for the inspection of gas and gas meters, and to regulate and control measurements and use of electricity and electrical apparatus and other means and agents for furnishing light, heat and power within the City.

60th. To regulate lodging, tenement and apartment houses, hotels and restaurants, and to prevent the overcrowding of the same, and to require the same to be put and kept in a proper sanitary condition.

61st. To prohibit and punish cruelty to animal and to require the places where animals are kept to be maintained in a healthful condition, and to protect birds and harmless wild animals.

62nd. To compel the owner and owners of vacant property, within the City limits, to keep the same clear of noxious weeds and of any brush or other material or substance liable to communicate fire to adjoining property.

63d. To punish injuries to, or interference with the ornamental trees or shrubbery in the streets and public places of the City, and to provide for the proper trimming of trees which overhang the sidewalks of the City.

64th. To provide for the revocation of licenses.

65th. To regulate and require licenses to be obtained for the pursuit and prosecution of such occupation or kinds of business not in this chapter expressly referred to and provided for, as in the opinion of the City Council may require regulation; and in general to adopt all such measures and establish all such regulations, in cases for which no express provision is in this chapter made, as the City Council may from time to time deem necessary for the promotion of the health, comfort and safety of the inhabitants, the preservation of peace and good order, the suppression of vice and the enhancement of the public welfare in said City.

66th. To establish and maintain City prisons and other places of confinement, for the imprisonment, punishment and safe keeping of all persons arrested for, charged with, or convicted of, any offense; make rules and regulations for the government and management of such prison, and other places of confinement, and to prescribe the duties of the keepers and officers of the same, which keepers shall have all powers and authorities of jailors at common law, or under the laws of this State.

67th. To provide for the lighting of the streets, alleys, and other public places within the City.

68th. To provide for the investigation of the origin and cause of fires, and compel the attendance of witnesses and the production and giving of evidence upon such investigation.

69th. To regulate and control, in a manner not contrary to any specific provisions on the subject contained in this charter, the exercise by any person or corporation, of any public franchise or privilege in any of the streets or public places in the City, whether such franchises or privileges have been granted by said City or under the State of Minnesota, or any other authority.

vending, dealing in, or in any way disposing of, any spirituous, vinous, fermented, malt, or intoxicating liquors, unless duly licensed by the City Council; and to license and regulate the sale of spirituous, vinous, fermented, malt, or intoxicating liquors and all persons vending, dealing in, or disposing of the same; provided it may prohibit vending, dealing or disposal by any person or persons (except regularly licensed druggists, to sell for medicinal, chemical or mechanical purposes, not to be used or drunk on the premises), of any spirituous, vinous, fermented, malt, or intoxicating liquors in any districts of the City which it may designate; and provided further that in case of the death of the licensee, and the discontinuance of the business for which said license was granted, the Council may refund to the widow or legal representative that portion of said license money pro rata for the unexpired term of said license.

#### License to Sell Intoxicating Liquors.

Sec. 21. The legal voters of the City of Benson, shall have the authority and power to vote upon, and determine for themselves, the question whether or not license, for the sale of intoxicating liquors, as a beverage, shall be granted by the Council of said City; and it shall be the duty of the City Clerk of said City, upon receiving a petition for that purpose, of twenty-five or more legal voters of said City, at any time not less than fifteen days before any annual election of said City, to give at least ten days notice that the question of granting license for the sale of intoxicating liquor as a beverage in said City shall be submitted to the legal voters thereof, at the next ensuing election; which question shall be decided by ballot containing the words, "In favor of license," or "Against license," as the case may be, provided, however, that the failure or neglect of the City Clerk to give the notice, required herein, shall not invalidate the vote and determination made under the provisions of this section, if the petition therefor shall have been duly filed; the votes upon such question shall be taken, canvassed, returned and announced in the same manner as is provided by this charter for the taking, canvassing and returning of the votes for the election of City officers, which determination so made shall continue until the same shall be revoked at a subsequent election in the same manner; and if such returns show that the majority of the votes cast at said election on said question be "Against license," no license for the sale of intoxicating liquors shall be granted, by the authority of said City; but if such returns show that the majority of the votes cast at such election on said question shall be "In favor of license" then the City Council may grant license to any suitable person of lawful age and being a bona-fide resident of this State for the sale of intoxicating liquors; the City Council of said City shall have the exclusive right, within said City, to license persons vending, selling or disposing of, intoxicating liquors, within the limits of said City, and no person shall be licensed by the City Council to deal in, or sell, intoxicating liquors as a beverage in said City unless he shall fully comply with all the requirements, and be subject to all the penalties, as provided in the ordinances of the City, the general statutes of the State of Minnesota, and of the United States; provided, that whenever the people shall have voted against the issuance of license for the sale of intoxicating liquors in said City, it shall thereafter be unlawful for any person or corporation to sell, barter or give away the same, in said City, at retail or wholesale, in any quantity whatever.

#### CHAPTER V.

##### TAXES AND BONDS.

Section 1. The fiscal year, of the City of Benson, shall commence on the first day of April, each year.

Sec. 2. The City Council shall have the power to levy upon all the taxable property of said City taxes to provide for the current expenses of the City government, and for the acquiring, improving and maintaining of public grounds and the construction of buildings and improvements of a public character, and for other purposes conducive to good order, general welfare, health, cleanliness and protection against crime; provided, that all taxes levied for any purpose except special taxes hereinafter enumerated, shall in no year exceed two per cent of the assessed valuation. Before levying a tax for a special purpose the question may be submitted to the voters at a general or special election.

##### Taxes—When and How Levied.

Sec. 3. All taxes shall be levied by resolution in writing of the City Council at their first regular meeting in the month of September in each year. All taxes shall be levied in specific amounts and for the specific purpose named in the budget and based upon an itemized estimate of the City expenses for the ensuing year.

Preparing Budget—The City Council shall, between the first day of August and the third Monday of August of each year, and by a majority vote of all members thereof, make a budget of the amount estimated to be required to pay the expenses of conducting the public business of the City for the fiscal year.

The budget shall be prepared in such detail, as to the aggregate sum and the several amounts allowed to each department, or fund as hereinafter stated, as the council may determine, and shall be recorded upon the minutes at length.

##### Funds.

Sec. 4. The proceeds of such tax levy and all moneys accruing to the City Treasury shall be divided into the following named funds, to-wit:

The General Fund, into which shall be paid, and in which shall be kept in addition to such moneys as may be raised therefor by taxation, all receipts by the City from license fees, fines and costs, sales of City property, and all moneys received from any source, except such as may be expressly destined for special funds, and from which shall be paid all the ordinary and current expenses, debts and liabilities of the City not otherwise expressly provided for.

The Street Improvement Fund, into which shall be paid such proportion of the general tax as shall have been determined by the City Council in compiling the budget.

The Water Works and Electric Light Fund, into which shall be paid all moneys received from water light rents and taxes. No moneys shall be taken from said fund except for purposes connected with the water works and light plant. Whenever a deficiency occurs in the Waterworks Fund money may be transferred from the General Fund to the Waterworks Fund.

The Library Fund, in which shall be kept all moneys raised by taxation or otherwise, required for the support or benefit of the free public library of the City, and which shall be subject to the order of the proper officers of said library for the payment of the expenses thereof.

The Poor Fund, into which shall be paid all moneys raised by taxation for the support of the poor. Any deficiency in this fund may be supplied from the General Fund; any surplus may be returned to the General Fund.

The Sinking Fund, into which shall be paid all moneys raised by taxation for that fund, and all moneys placed in said fund by the City Council.

And such other special funds as may hereafter be established by any statute of the state, or by City ordinance.

No tax shall be invalid by reason of any informality in the manner of levying the same nor because the amount shall exceed the amount required to be raised for the special purpose for which the same is levied.

##### Funds to be Kept Separate.

Sec. 5. The said several funds mentioned in the last preceding section shall be kept separate and distinct, and the City Treasurer shall keep separate and distinct accounts of receipts therein and disbursements therefrom. Each of said funds shall be devoted only to the particular purpose or purposes for which it is created, and the City Treasurer is expressly prohibited from making any disbursements from either of said funds, and from permitting the same to be to any extent depleted, for any other than such particular purpose or purposes. It shall be his duty, as soon as any one of said funds is exhausted, to immediately inform the Council of such fact.

The City Treasurer shall not make or permit any transfer of any money from either of said funds to another, except in the cases mentioned and provided for in this charter.

Whenever the City Treasurer shall receive from the county treasurer, or from any other source, officer or person, any money or its equivalent belonging to said City, he shall apportion and credit the same to the proper fund or funds, and shall, without delay, transmit to the City Clerk a duplicate of his receipt thereof.

Proceeds of taxes collected, when received, shall be apportioned to the several funds in the ratio that the amount levied for that fund bears to the total levy.

##### Separate Accounts of Estimates and Appropriations.

Sec. 6. It shall be the duty of the City Clerk to keep an accurate and separate account of the estimates made, and of the appropriations made from time to time for each department and purpose, in such form that he may be enabled thereby to inform the City Council at any time how much of the sum estimated for any department or purpose remains unexpended. And the City Clerk shall keep, with the aid of duplicate receipts and statements of payments made on City bonds to be furnished to him by the City Treasurer, general accounts of the receipts and disbursements from the general fund, the sinking fund, and all other funds in the City Treasury, except the Library Fund and other funds not subject to the control of the City Council, which accounts shall be in such form that comparison may be readily made between them and the accounts kept by the City Treasurer, and that the accounts kept by the City Clerk and the City Treasurer, respectively, may be easily checked by each other.

##### Time Warrants.

Sec. 7. The City Council may issue time warrants, when the fund on which the warrant is drawn is exhausted; provided, that at no time shall the aggregate warrants outstanding against any fund exceed fifty per cent of the uncollected tax levied for such fund, and that said warrants shall bear interest at the legal rate.

**Incurring Debt.**  
Sec. 8. No debt shall be incurred by the City, the City Council, or any officer of the City, except pursuant to the authority herein expressly given for that purpose, to exceed the amount of tax collected, or assessed, or in process of collection and funds on hand.

Sec. 9. The City Council shall have the power to borrow money and issue the bonds of the City therefor, for such amount as may be authorized by a majority of the legal voters of the City, voting upon the question; the vote to be rolled and returns thereof made and canvassed in conformity with the provision of the chapter respecting City elections; and upon due notice, given under the direction of the City Council. All bonds shall be redeemable within Twenty years from their date, and bear interest at no greater rate than Five per cent per annum, and shall not be sold for less than par, and taxes may be levied by the Council to pay the interest accruing thereon, and to pay the principal as the bonds mature, and such aggregate bonded indebtedness shall never exceed ten per cent of the last assessed valuation of the property in said City.

**No Limitation—When.**  
Sec. 10. No limitation or restriction herein contained shall be construed to prohibit the levying of taxes to pay any judgment that may at any time be rendered against the City. In case of failure to collect taxes, or other cause, and when such levy shall prove insufficient to pay such judgment, new taxes shall be levied until the whole of such judgment shall be paid. Any excess of the amount so levied and collected over the payment of such judgment shall go into the General Fund of said City.

The City Council, on the first day of April annually, shall make a full and accurate statement of the receipts and expenditures of the preceding year, which statement shall contain a full and correct description of each item, from whom and on what account received, to whom paid, and on what account expended together with an accurate statement of the finances of the City at the end of the fiscal year, including all debts and liabilities of every description, and the assets and the means to discharge the same; and shall, within twenty days thereafter, cause the whole or a summary of the same to be published once in the official newspaper of the City. The City Council may direct the City Clerk to prepare statements for publication at such other times as it may deem necessary or proper.

**Statement to Auditor.**  
Sec. 11. The City Council shall cause to be transmitted to the County Auditor of Swift County, on or before the Tenth day of October of each year, a statement of all taxes by them levied; and such taxes shall be collected and the payment thereof enforced in like manner as other taxes. And the County Treasurer shall pay such taxes to the Treasurer of said City, on the warrant of the County Auditor after the said Auditor makes the settlement with the County Treasurer required by law.

**Money—How Paid.**  
Sec. 12. No money shall be paid out of the City Treasury unless such payment be authorized by vote of a majority of all the members of the City Council, and then shall be drawn out only upon the order of the Mayor, countersigned by the Clerk, which order shall specify the purpose for which it is drawn and the fund out of which it is payable, and the name of the person in whose favor the same is drawn, and may be made payable to the order of such person, or the bearer, as the City Council may determine.

**Orders Cancelled.**  
Sec. 13. When any such order shall have been paid or received by the Treasurer it shall not again be issued, but he shall immediately cancel the same, and file the same in his office, keeping the orders drawn upon each fund separate.

**Sinking Fund.**  
Sec. 14. It shall be the duty of the City Council, within sixty days after the first election held under this charter, to ascertain and determine the total amount of all the outstanding indebtedness owing by the Village of Benson when this charter goes into effect and to establish a Sinking Fund for the purpose of providing for the payment of the same, at such time and in such manner as it may seem for the best interests of said City. It may levy a special tax for that purpose, if deemed advisable, not to exceed

Five mills on the dollar of the assessed valuation of said City in any year, the proceeds to go into said fund.

Said City may refund any floating indebtedness by the issue and sale of Sinking Fund Warrants, payable in such annual amounts, within a period of not less than six years, nor more than ten years, as it may deem advisable; and such warrants when issued shall not be affected by any limit of indebtedness prescribed herein, and shall bear interest at the legal rate.

Any surplus money remaining in said fund, for which there is no present need, may at the discretion of the City Council, be loaned to any other fund, by the purchase of the warrants of such other fund when within the legal limit, for the benefit of the Sinking Fund; but such warrants shall be repaid to, and accounted for, to such Sinking Fund, the same as other money due such fund.

**Claims—How Paid.**  
Sec. 15. No money demand against such City shall be paid until audited and allowed by the Council, nor otherwise than by an order drawn upon the Treasurer therefor. Such demand shall be made out in items, and be verified by an attached affidavit that the claim is just and correct, and that no part of it has been paid. The Clerk shall endorse thereon the word "Disallowed," if such be the act, or "Allowed in the sum of \$...." if approved in whole or in part; specifying in the latter case the items rejected. Such accounts and affidavits shall be filed by the Clerk, and consecutively numbered throughout the year. Each claim allowed shall also bear the number of the order drawn for its payment, and the Clerk shall take and preserve a receipt for each order issued. Orders presented to the Treasurer and not paid for want of funds, shall be so marked, and paid in the order of their presentation, and shall bear interest at the rate of six per cent from the date of such presentation.

**Taxpayer's Appeal.**  
Sec. 16. No order shall be issued or signed for the payment of any claim until ten days after the allowance thereof, within which time any five taxpayers of the City may appeal from such allowance to the district court of the County. To effect such appeal, they shall pay to the Clerk a fee of fifty cents, and serve upon him a notice setting forth the fact of the appeal, the claim referred to, and the date and amount of its allowance, and thereafter no order shall issue until the appeal is determined. The Clerk shall forthwith file the copy of notice served, and transmit to the Clerk of said court, the original affidavit and claim, with a certified copy of the minutes of all council proceedings relating thereto. Upon proof being filed with said Clerk of the service of said notice, the court shall have jurisdiction of said claim, and of the parties thereto. Such appeal shall be tried and determined in the same manner as appeals from a decision of the county board.

## CHAPTER VI.

### FRANCHISES.

Sec. 1. The City Council shall have the power to grant franchises for the occupation of the streets, alleys, and public grounds of said City, for the use of telegraph, telephone, and electric light poles and wires, for street car tracks, and for laying of gas pipes or mains, and electric conduits, and for other purposes for the use, convenience and accommodation of the public; and in all cases the City Council shall regulate, and control the same, so that nothing shall interfere with the construction of common sewers, or the lateral branches thereof, or with the proper location of water mains and pipes, and the City Council may at any time require the location of any such poles, pipes or conduits or anything else to be authorized to be changed, if the same shall be found to interfere, in any way, with the proper and convenient location of sewer or water mains and pipes, or in any other way inconvenience the public; provided, that all such franchises, so granted, shall be subject to the regulations and restrictions hereinafter contained.

#### Perpetual or Exclusive.

Sec. 2. No perpetual franchise shall ever be granted; and no franchise shall be granted for the laying of water mains. No exclusive franchise shall be granted, unless the proposed grant be first submitted to the voters of the City and be approved by a majority of those voting therein nor for a period of more than twenty-five years.

#### Limit of Time.

Sec. 3. No franchise shall be granted for a term to exceed Twenty years, except as herein provided.

#### Control and Percentage.

Sec. 4. Every franchise granted shall be by ordinance, and shall contain a provision reserving to the City Council the right to regulate and control the business, for which said franchise shall be granted; and to limit the rates to be charged for any service to be rendered; and the City Council shall have the right, in its discretion, to provide for the payment to the City, of a percentage of gross earnings, in return for any franchise granted.

### Acquisition.

Sec. 5. Every franchise granted shall contain a provision granting the City the right to acquire the same and the business for which it is granted at the end of every term of Five years, if a majority of the voters of the City vote in favor of such acquisition.

### How Acquired.

Sec. 6. Whenever the voters of the City are desirous of acquiring any business operated under a franchise granted by the City, such acquisition shall be by purchase at the reasonable appraised value, the method of appraising to be determined by the City Council by ordinance.

### Public Vote.

Sec. 7. Whenever there are two or more applicants for the same franchise if the Council determine to grant the same, it shall be granted to such person or corporation as the City Council, in their judgment, deem for the best interests of the public; provided, that, whenever an application is made for a franchise, upon the petition of Twenty per cent of the legal voters, who are freeholders, in said City, the question of granting such franchise shall be submitted to a vote of the legal voters of said City, at any general or special election.

### Private Sewers.

Sec. 8. The City Council may permit any person or number of persons, associated together for such purpose, to construct or lay private sewers in any of the streets or alleys in said City, provided the same makes proper connection with the public sewer of said City, and conforms in all respects with such rules, regulations and requirements as may be prescribed by said City Council by ordinance; and such sewers shall be constructed under the direction and supervision of the said City Council or such officers as it may designate for such purpose; provided, that the City shall have the right at any time to connect any public sewer with such private sewer without the payment of any fee for such connection, and the City Council shall have the right to prescribe, by ordinance, the manner and terms upon which any person, not joining in its construction, may have the right to make subsequent connections with any such sewer; provided further, that the City may acquire and take possession of the same when the public welfare demands it.

## CHAPTER VII.

### CONTRACTS.

#### Definition.

Section 1. All contracts for commodities, work or service, to be furnished or performed for the City or any department or officer thereof, involving an expenditure of more than Five Hundred dollars, shall be made as in this chapter provided and not otherwise.

#### Estimates and Amount of Contract.

Sec. 2. The City Council, in the first instance, shall, on its own motion, or may, on the recommendation or report of any department or officer of the City, determine, in general way, the commodities, work or service in accordance with its general directions. Duplicates of said plans, specifications and proposed contracts shall be filed with the City Clerk and remain in his office.

#### Advertising.

Sec. 3. Before advertising for bids, the City Council shall cause to be prepared by the proper department or officer of the City, detailed plans, specifications, and a proposed contract for said commodities, work or service in accordance with its general directions. Duplicates of said plans, specifications and proposed contracts shall be filed with the City Clerk and remain in his office.

#### Advertising.

Sec. 4. After filing the said proposed contract and plans and specifications, the City Council shall direct the City Clerk to advertise for bids for doing or furnishing said commodities, work or service in accordance with the said contract, plans and specifications as the City Council may direct.

#### Certified Checks.

Sec. 5. In advertising for bids, the City Council shall require each bidder to deliver, with his bid an approved certified check, payable to the City Treasurer, for at least 10 per cent of the total amount of such bid, which check shall be forfeited to the City as liquidated damages, if the bidder, upon the letting of the contract to him, shall fail to enter into the contract so let. All advertisements for bids shall reserve the right to reject any and all bids.

#### Receiving and Opening Bids.

Sec. 6. At the time and place mentioned in the advertisement for bids, the City Council shall meet in public session



accept any other than the lowest bid, unless for good cause it shall deem it desirable to accept one of the higher bids, but in such case the City Council shall not accept a bid higher than the lowest bid by more than the amount of the certified check deposited with the lowest bid. Provided, that for good cause the City Council may, by a Three-fourths vote of all the members, provide that the work may be done by direct employment of labor, and purchase of materials by said City.

#### Bond.

Sec. 8. Every person, to whom a contract is awarded, shall give bonds, in such sum as the City Council may direct, and with such sureties as the Mayor may approve, for the faithful performance of such contract. In all cases of contracts coming within the purview of chapter 354, General laws of 1895, of the State of Minnesota, and the amendments thereto, it shall require such bonds as are required by such laws.

#### Emergency.

Sec. 9. In case of emergency, and when delay would cause great damage to the public interests, or endanger the public safety, the head of any department of the City, with the approval of the City Council, may make necessary repairs by day labor, and procure materials therefor in open market.

#### Three Year Contracts.

Sec. 10. The City Council may, in accordance with the provisions of this chapter, authorize the making of lighting contracts and contracts for the removal or disposition of garbage, ashes, street sweepings or other unwholesome or objectionable matter for a term not exceeding Three years, but, in every such contract, there shall be reserved the right of the City Council to increase or decrease at any time the service to be rendered thereunder, and to correspondingly increase or decrease the amount to be paid by the City thereunder.

#### Official Printing.

Sec. 11. The City Council may, at its first regular meeting in April each year, direct the City Clerk to procure, in accordance with the provisions of this charter, bids for the publishing of ordinances, resolutions and proceedings of the City Council and any other notices required to be published by the City. Such publication shall be in some weekly newspaper, which is printed in the English language and published in the City of Benson, and which shall have been printed, published and of general circulation in said City continuously for at least one year prior thereto. Such bids shall include the publication of such pamphlets or bound proceedings of the City Council as may be required and any other printing required by the City or any department thereof. The City Council shall, at the time of accepting any bid, designate the newspaper to which the contract is awarded as the official newspaper of the City and all notices and advertisements, by this charter required to be published, shall be published in said newspaper, unless in this charter otherwise specifically provided, and in case of the suspension of the publication of such newspaper, or the failure or refusal of its publisher to make publications for the City, or if at any time for any reason there shall be no official newspaper in which publications can be made, the City Council may designate some other newspaper as the official newspaper of the City, until such time as a contract can be made. Immediately after the publication of any notice, ordinance or other matter, which is required to be published, the printer or publisher shall file with the City Clerk a copy of such publication, with his affidavit, or the affidavit of his or their foreman, showing the length of time the same has been published.

### CHAPTER VIII.

#### STREETS AND HIGHWAYS. Powers of the City and of the City Council.

Section 1. The City shall have the custody of and control over the streets, alleys and public places within its limits. The City Council may lay out, open, extend and widen or straighten any streets, alleys, or public places within the City. The City Council may also, for the purpose of drainage, construction of bridges or for making other necessary public improvements, or for the improvement of the health or sanitary conditions of the City, enter upon, lower, raise, change the course of, or divert any stream of water, ditch or drain within the limits of the City, and may cause to be built, maintained or repaired, bridges across streams or railway tracks, and may provide for the construction of curbs and gutters, and for the pavement of streets, alleys or public places of the City.

#### Grades.

Sec. 2. The City Council may, by ordinance, establish the grade of any street, when such grade has not been established, and may by ordinance, passed by the affirmative vote of Three-fourths of the members of the City Council, change the grade of any street after such grade has been established. It shall cause accurate profiles of the grades of all streets to be made and kept in the office of the City Clerk. The expense of establishing all grades shall in the first instance, be borne by the City, but after such grade has been established, and a profile thereof filed as aforesaid, the expense of finding such grade for private purpose shall be paid by the owners of the property.

#### Bridges.

Sec. 3. All bridges in the City of Benson, together with the guards and embankments connected therewith, and the immediate approaches thereto, which form a necessary part of the same, shall be built, maintained and kept in repair by the City, as a general City charge, except so far as the building, maintaining or keeping in repair of the same may be chargeable to any railway company or other corporation or person.

#### Power to Open Streets and Make Other Improvements.

Sec. 4. Whenever the City Council shall determine to lay out, or open, new streets, or alleys, in said City, or to widen, straighten and extend any that now exist, or may hereafter exist, it may, for such purpose, purchase or condemn any real estate, or interest therein, which is private property, and provide for the payment of the value of such property as may be taken for such improvement and all damages done to any private property by reason of such improvements.

#### SIDEWALKS.

Grant of Powers. Duties of Owners.  
Sec. 5. The City shall have the right to cause to be constructed, sidewalks, along any of the public streets and highways of said City that it may deem necessary, and cause the same to be re-laid, repaired or removed when necessary, and it is hereby made the duty of all owners of land adjoining any street or highway in the City to construct, re-lay, repair or remove such sidewalk along the side of the street or highway next to the land of such owners, respectively as may have been heretofore constructed or as shall hereafter be constructed or directed by the Council to be built, and the same shall be constructed of such material and width and according to the plans and specifications adopted by the Council therefor.

#### How Ordered.

Sec. 6. Whenever the Council shall deem it necessary that any sidewalk in the City shall be built or re-laid, it shall, by resolution, direct such building or re-laying, according to the plans and specifications adopted therefor.

Personal notice by service of a copy, or, in case of non-residents, by the publication of such resolution once in the official paper shall be sufficient notice to the owners of the lands 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 sidewalk within thirty days after the publication of such resolution or the service thereof upon him as aforesaid, the Council shall forthwith proceed to build or relay the same under contract as hereinbefore provided, or under the direction of the Street Commissioner, who shall at once file with the Clerk his report of such work.

Within thirty days after the filing of said report the City Council shall ascertain the expense of such building or re-laying, and assess and levy such expense upon and against each lot and parcel of land upon which such sidewalk shall front, in accordance with the chapter on local improvements.

#### Repair of Sidewalk.

Sec. 7. If the owner of any lot or parcel of land shall suffer any sidewalk along the same to become broken, rotten or out of repair, it shall be the duty of the street commissioner to immediately repair the same in a good, substantial and firm manner and report to the Council the cost of such repairs, in each case, with a description of the lot or parcel of land abutting upon the sidewalk on which such repairs are made, and such report shall be carefully filed and preserved by the Clerk, and it shall be the duty of said City Council to assess the cost and expense of making such repairs against said lots, as above provided.

In case any such sidewalk shall become so out of repair as to be dangerous and cannot be made safe without being rebuilt and there are no funds to pay the expense of such rebuilding, it shall be the duty of the street commissioner to remove the same entirely, and the expense of such removal shall be added to the cost of rebuilding, when the same shall be rebuilt, and shall be collected with the assessment for such rebuilding.

#### Liability for Obstruction of Streets.

Sec. 8. All persons, who shall, by

means of any excavations in, or obstructions upon, any street or sidewalk of said City, not authorized by law or the ordinances of the City, render such streets unsafe for travel, or who shall, by negligence in the case of any such sidewalk or the management of any such excavation or obstruction as shall be authorized, or by the failure to maintain proper guards or lights thereat, render such streets insufficient, or unsafe for travel, shall be liable for all damages, not caused by negligence of the party injured, to whomsoever resulting, by reason of such obstruction or negligence; and no action shall be maintained against said City for such damages, unless such person or persons shall be joined as party defendants; and in case of judgment against the defendants in such action, executions shall at first issue only against the other defendants, and the City shall not be required to take steps to pay such judgment until such execution shall be returned unsatisfied, and, if the City shall pay such judgment, it shall become the owner of the same, and may enforce payment of the same from other defendant; it shall be entitled to execution therein against him, and to take such other proceedings as judgment creditors are entitled to take.

#### Actions for Injuries.

Sec. 9. No action shall be maintained against the City of Benson for any defect in any street, until the same shall have been graded; nor for any insufficiency of such grounds, where sidewalks are usually constructed, where no sidewalk is built.

#### Prohibition Against Piling Snow.

Sec. 10. No railway company shall have any right, in clearing its tracks through any part of said City, or otherwise, to pile up snow or other material and leave same piled upon any traveled portion of any street in said City; and any such company shall, in addition to all penalties prescribed therefor, be liable to any person who shall be injured by means of any such obstruction caused by such company or its servants for all damages sustained; and in case any damage shall be recovered against the City for injuries caused by such obstructions, the City shall have the right to recover the same again from the company by whom the obstructions were caused.

#### Plats.

Sec. 11. Whenever any person shall subdivide any piece of ground within the said City, he shall cause the same to be surveyed and platted in accordance with the provisions of the General Statutes of the State of Minnesota, and when the survey and plat are so completed and acknowledged, it shall be presented to the City Council for its approval. The acceptance of such plat or addition shall not make the City liable to grade the streets, therein designated, nor responsible for any insufficiency of such streets, until the same are graded and opened for travel under the direction of the City Council.

#### Vacation of Streets.

Sec. 12. The City Council, upon petition signed by a majority of the owners, resident in the City, on the line of that portion of any street, alley, public ground or highway, together with a distance of Three Hundred feet in each direction from the end of such portion proposed to be vacated, stating the facts and reasons therefor, accompanied by a plat of such street, alley, public ground or highway, may, if they deem it expedient that the matter should be proceeded with, order the petition to be filed with the City Clerk, who shall give notice by publication, twice in the official paper of said City, at least once a week, to the effect that such petition has been filed, and stating in brief its object, and the date upon which and the place where the petition will be heard and considered by the Common Council, or committee appointed by them, not less than ten days from the expiration of such publication. The Common Council, or such committee as may be appointed by them, shall investigate and consider the matter, and hear the testimony and evidence on the part of the parties interested. The Common Council may, by resolution, after the hearing, passed by a Three-fourths vote of all members elect, declare such street, alley, public ground or highway vacated; which resolution, after the same shall go into effect, shall be published, as in the case of ordinances, and thereupon, a transcript of such resolution, duly certified by the City Clerk, shall be recorded in the office of the Register of Deeds of Swift County. Said petitioners shall, in all vacation proceedings, pay the costs thereof, and shall deposit with the City Clerk, upon the filing of the petition a sum sufficient to cover the costs of vacation proceedings.

#### Improvements—How Made.

Sec. 13. All of the improvements, herein provided for, shall be made under the chapter of this charter relative to local improvements, so far as the same may apply.

#### Authority to Repair Roads and Bridges.

Sec. 14. The City Council, by a Three-fourths vote of all the members, shall have power to build, repair and maintain roads and bridges beyond the City limits into other towns and counties, whenever they deem it proper, and to fix the amount and manner in which the appropriations for such purposes shall be expended.

## CHAPTER IX.

### LOCAL IMPROVEMENTS.

#### Power to Acquire Property.

Section 1. The City of Benson may acquire, by purchase, condemnation or otherwise, either within or without the limits of said City, any property that may be required for any purposes of the City. In all said cases, the City may acquire the fee title and absolute ownership of such property, and, where nothing to the contrary is specified, the City in any acquisition of property, shall be deemed to have acquired the fee title and absolute ownership of said property, except in the cases of streets and alleys.

#### General Improvements.

Sec. 2. Whenever the City Council shall consider it necessary to procure real estate, or any rights in real estate, or any other property for public purposes, the City Council shall appoint a committee of not less than Three of its members, who, together with the City Engineer, or such other competent person as the City Council may direct, shall make examination and propose to the City Council a location and description of land and other property suitable for any of the purposes hereinbefore described, and the most convenient manner of taking and using the same, and present to the City Council a plat, plan, survey or a description of the land or other property proposed to be taken, and their report shall, so far as the committee shall deem necessary, state what other existing property can be used for the particular purpose under consideration, and any other matters which the committee shall deem proper for the information of the Council; and such committee may present, for the consideration of the City Council, more than one location, proposition or plan. Any citizen may present, for the consideration of the City Council, any such location, plan or proposition for such purpose.

#### Notice of Report.

Sec. 3. Such committee shall file its report with the City Clerk of the City, who shall give notice, by publication, twice, in the official paper of said City, that such report is on file, in his office, for the inspection of all persons interested, and that the same will be presented to the City Council for action thereon at a meeting of the said City Council to be named in such notice, which shall be the regular meeting of said Council which shall occur next after one week from the second publication of such notice. At the meeting named in such notice, the City Clerk shall next after the reading of the minutes of the previous meeting, present such report, and the matter may be proceeded with by the City Council at the same or any subsequent meeting. The City Council, under such rules as it may prescribe, may hear any person interested in the matter or refer the matter to a committee to hear such persons and report.

#### Action of Report.

Sec. 4. In all cases where different locations, propositions or plans may be equally available for the purposes specified in section Two, the City Council may, either before or after appointing said committee, obtain offers for appropriate real estate or other property, in accordance with the provisions of the chapter on contracts in this charter, and may, if it deem advisable, accept the most advantageous of such offers, without taking any condemnation proceedings; and in all cases where different locations, propositions or plans may be equally available or advantageous for the purposes under consideration, the committee shall, before making its report, advertise for proposals or offers for such locations, propositions or plans.

#### Condemnation Procedure.

Sec. 5. Whenever the City Council shall determine to take and appropriate any lands, or other property, for any public purpose, it shall designate the same, as nearly as may conveniently be done, and direct the City Engineer, or other City officer, to make such plat or survey or description as may be necessary to show or explain the same, and, when made, it shall be filed with the City Clerk, and the City Council shall then or afterwards appoint Three commissioners, who shall be freeholders of said City, to view the lands or other property to be taken and appropriated, and ascertain and award the amount of damages or compensation to be paid to the owners of the same. Two of such commissioners shall constitute a quorum, and be competent to do any act require of such commissioners.

They shall be notified by the City Clerk, by notice served on them severally either

to qualify and enter upon their duties; and in case a quorum of such commissioners shall not so attend at the time and place designated in such said notice, the Mayor of the said City may in writing, appoint one or more commissioners in the place of such absentees.

The commissioners shall be sworn by the City Clerk or any other officer authorized to administer oaths, to discharge their duties as such commissioners in the matter with fidelity and impartiality and make due return of their action to the City Council.

They shall give notice, by Two publications in the official paper of said City, that they will, on a day designated in such notice, which shall be at least Ten days after the first publication of such notice, meet at a place designated in such notice, on or near the property proposed to be taken and appropriated, and view such property, and ascertain and award therefor compensation and damages, and that they will then and there hear such allegations and proofs as interested persons may offer.

After the publication of such notice, and at least Six days (Sunday excepted) prior to the meeting designated in said notice, the City Clerk shall also cause a copy of the same to be served personally upon the person in possession of each parcel of said property as separately assessed or some part thereof, if the same is actually occupied, in the same manner as is provided for the service of summons in civil action in the district courts of the State of Minnesota.

A copy of all subsequent notices, relating to said proceedings, which are required to be published, shall be mailed in the manner above specified, by the City Clerk, immediately after the first publication thereof, to such persons interested in said proceedings as shall have appeared in said proceedings and have requested in writing that such notices be mailed to them. Such commissioners shall meet and view the property, pursuant to such notice, and may adjourn from time to time, and after having viewed the property, may for the hearing of evidence and preparation of their award, adjourn or go to any other convenient place in said City, and such commissioners shall make a true and impartial appraisal and award of the compensation and damages to be paid to each person, whose property is to be taken or appropriated, and shall forthwith file a report of the same with the City Clerk, for presentation by him to the City Council, and such report shall lie over until the next meeting of the City Council, which shall occur at least one week after the reception of the same, at which, or at any subsequent time, the City Council may act on such award and hear any objection made thereto, or may refer the matter to a committee to hear such objections and report thereon.

The City Council may confirm such award, or annul the same, or send the same back to the same or a new Board of Commissioners for further consideration and such commissioners may in such case, again, on giving notice as before, meet, at a time and place to be designated in said notice, and hear any evidence that may be adduced by interested parties or persons, and may adjourn from time to time and correct any mistake in such award, and revise and alter the same as they deem just, and again report such award to the City Council, which may confirm or annul the same.

When any such award shall be confirmed by the City Council, the same shall be final and conclusive upon all parties interested, except as hereafter provided.

#### Awards.

Sec. 6. Whenever any award of compensation and damages is confirmed by the City Council and not appealed from, and whenever the same, when appealed from, shall not be set aside by the Court, the same shall constitute a lawful and sufficient condemnation and appropriation to public use of the land or property, or rights in property, for which compensation or damages are so awarded; and the City Council shall thereupon cause to be paid from the proper fund of said City, to the owners of such property, the amount awarded to each severally.

In case such payment is not made, or the money set apart in the City Treasury, within one year after the confirmation of the award, or the determination of the appeal thereupon, the proceedings shall be deemed to be abandoned.

Before payment of such award, the owner of such property, or the claimant of the award, shall furnish an abstract of title or other satisfactory evidence of his right to such award. In case of neglect to furnish such abstract or other evidence, or in case there shall be any doubt as to who is entitled to such compensation or damages or any part of the same, the amount so awarded, or the part thereof in dispute, shall be by the City Council set apart in the City Treasury for whomsoever shall show clear right to receive the same.

The City Council may, in its discretion, require of such claimant a bond, with good and sufficient sureties, conditioned to indemnify and save the City harmless against all other claims for such compensation or damages or for the property for which the same was awarded, and all loss, costs or expenses on account of such claims.

Upon the payment of said award or appropriation, or the setting apart of the money in the City Treasury to pay the same as aforesaid, the City shall become vested with the title to the property taken and condemned, and may forthwith enter upon and use the same.

This section shall apply to all cases of appropriation of private property for public use, provided for in the charter.

#### Streets and Water Courses.

Sec. 7. Whenever the City Council shall vote to lay out, or open any new street or alley, or to straighten, widen or extend any that now, or hereafter, may exist, which shall make it necessary to take, injure, or interfere with, private property, it shall determine and designate, in a general way, as nearly as may be, the character and extent of the proposed improvements and injury and shall proceed as near as can be, as provided in sections Five and Six; provided that the plat and survey, therein required, shall show all land contiguous to said improvement, and the notices, therein required, shall be served upon the owners and occupants of all lands shown on said plat, and the commissioners, therein provided for, shall, after viewing the premises and hearing the evidence offered, prepare and make a true and impartial appraisal and award of the compensation and damages to be paid to each person whose property is to be taken or injured by the making of such improvement; but, if the remainder of the same property, a part of which only is to be taken or damaged by such improvement, shall be benefited by such improvement, then the commissioners, in considering and awarding compensation and damages, shall also consider, estimate and offset the benefits which will accrue to the same owner in respect to the remainder of the same property, and award him only the excess of the compensation over and above such benefits, if any there be.

The said commissioners shall then assess the amount of such compensation and damages so awarded, together with the expense and cost of making the improvements, upon the land and property benefited by such improvements, and in proportion to such benefits; but in no case shall the amount of such assessment exceed the actual benefit to the lot or parcel of land so assessed, deducting therefrom any damages or injuries to the same parcel, which are less than such benefits, and assessing only the excess, and prepare and report to the City Council their appraisal and award. And, if, in the judgment of said commissioners, the whole amount of such compensation and damages, together with the cost of making such improvement, shall exceed the actual benefit to the specific property subject to such assessment, they shall so indicate in their report, stating the amount of such excess.

Said commissioners shall also report, to the City Council, an assessment list, containing their assessment of such compensation, damages and costs of such improvement, or so much thereof as shall not exceed the actual benefits to the property so assessed, which list shall contain a brief description of each tract or parcel of property assessed, the name or names of the owners thereof, if known, and the amount assessed against each parcel of property and the amount of the excess of such compensation, damages and costs as aforesaid, which they shall return unassessed and shall be presented and acted upon, as provided in sections Five and Six of this chapter.

Whenever the City Council shall confirm any such award and assessment, such confirmation shall make such award and assessment final and conclusive upon all parties interested, except as hereinafter provided, and the City Council shall proceed, at the same or any subsequent meeting, to levy such assessment upon the several parcels of land described in the assessment list reported by the commissioners, in accordance with the assessment so confirmed, and cause to be made and adopted an assessment roll of the same, which may be in any form the City Council may adopt.

#### Objections and Appeals.

Sec. 8. Any person whose property is proposed to be taken, interfered with, or assessed for benefits, under any of the provisions of this chapter, and who deems that there is any irregularity in the proceedings of the Council, or action of the

for the taking of, or interference with his property, or the amount of assessment for benefits to any property affected by such proceedings, may, at any time before such award or assessment shall be confirmed by the City Council, file with the City Clerk, in writing, his objection to such confirmation, setting forth therein specifically the particular irregularities complained of, and containing a description of the property affected by such proceedings and if, notwithstanding such objections, the City Council shall confirm the award or assessment, such person so objecting shall have the right to appeal from such confirmation of the City Council, to the District Court of the County of Swift, at any time within twenty days after such confirmation.

Such appeal shall be made by serving a written notice of appeal upon the City Clerk of said City, which shall specify the property of the appellant affected by such award, and refer to the objection filed as aforesaid, and by also delivering to the said City Clerk a bond to the City of Benson, executed by the appellant, or some one in his behalf, with two or more sureties, who shall justify in the penal sum of One Hundred Fifty Dollars, conditioned to pay all costs that may be awarded against appellant.

Thereupon the City Clerk shall make out and transmit to the Clerk of said District Court, within ten days after the taking of such appeal, a copy of the award or said commissioners, as confirmed by the City Council, and of the action of the Council confirming the same, and of the objections filed by the appellant as aforesaid, all certified by said City Clerk to be true copies. But, if more than one appeal be taken from any award of assessment, it shall not be necessary for the Clerk, in appeals subsequent to the first, to send up anything except a certified copy of the appellant's objection.

There shall be no pleadings on such appeal, but the Court shall determine in the first instance whether there was in the proceedings any such irregularity or omission or duty, prejudicial to the appellant and specified in said written objection that as to the appellant, the award or assessment of the commissioners ought not to stand, and whether said commissioners had jurisdiction to take action in the premises.

The case may be brought on for hearing, on eight days notice, at any general or special term of the Court, and shall have precedence of all other civil cases, and the judgment of the Court shall be either to affirm or annul the proceedings only as the same affects the property of the appellant proposed to be taken, damaged or assessed for benefits, as described in the written objections.

In case the amount of damages awarded or assessments made for benefits is complained of by such appellant, the Court shall, if the proceedings are confirmed in other respects, upon confirmation, order the cause to be docketed by the Clerk, in the name of the person taking such appeal, against the City of Benson, as an appeal from assessments. The cause shall then be at issue in such Court and shall have the preference in order of trial over all other civil actions pending in said Court. Such appeal shall be tried in District Court as are all other civil cases, except no pleading shall be required, and, as to the owner, the only questions to be passed upon shall be whether the valuation of the property specified in the objection is a fair valuation and the assessments of damages, so far as it affects said property, is fair and impartial. The judgment of the court shall be such as to confirm, or annul said assessment or to modify said assessment to conform to the verdict or finding of the jury, so far as the same affects the property appropriated of said appellant, from which judgment no appeal or writ of error shall lie, and if the Court shall be of the opinion that such appeal was frivolous, or vexatious, it may add judgment costs against the appellant, in a sum not exceeding Twenty-five dollars; otherwise no costs shall be recovered by either party.

#### Abandonment.

Sec. 9. The City Council shall have the right, at any time during the pendency of any proceedings for the improvements authorized in this chapter, or at any time within thirty days after the final order of the Court on any appeal from such proceedings, to abandon all such proceedings or any part of the same, whenever it shall deem it for the best interest of the City to do so.

#### Assessments for Pavements and Sewers.

Sec. 10. Whenever the City Council shall determine to cause to be paved, repaved, or macadamized, any street, lane or alley in said City, or to lay, relay or extend, any sewer pipes in or through such streets, lanes or alleys or any portion thereof, it shall determine and designate, in a general way, as nearly as may be convenient, the character and extent of the improvement and the material to be used therein, and thereupon it shall be the duty of the City Engineer, or such competent person as the City Council may designate, to make and present to the City Council an estimate of the cost which shall be required to construct such improvements stating therein the proportion of such estimated cost which shall be required to construct such improvements in front of abutting lands, and the proportion thereof required to construct the same across streets, lanes, alleys, and in front of lands not subjected to assess-

ment, and also the excess of cost, in case of sewers, over and above the cost of a twelve-inch sewer; also a list of the several lots and parcels of land fronting upon such proposed improvements, with the number of feet in front of each extending along such improvements, together with the names of the owners of the several parcels as nearly as the City Engineer can determine; a record of the reception of such report shall be made in the official proceedings of the City Council, and there shall be published once in the official City paper a brief statement of the proposed improvements over the signature of the City Clerk, which shall be held to be sufficient notice to all persons concerned; and such report shall lie over, without any assessment being made until the next regular meeting of the City Council, which shall not occur for at least one week after the reception of such report and publishing of such notice, but the City Council in its discretion, may direct the City Clerk to advertise for, and receive, in the meantime, bids for doing work and furnishing the material required to construct and complete such improvement, and report the same to the City Council at such meeting as it may designate, or to which such report is laid over; the City Council may consider such estimate and list and any further communications from the City Engineer, respecting the matter, and under such rules as it may make, shall hear all persons interested in the matter of such improvements who may desire to be heard; and the City Council may adhere to its resolution of making improvements or may modify the character of the same or abandon it. If the City Council shall determine to go on with such improvements, whether modified or not, it may, either before or after having contracted for the construction of such improvements, estimate and fix upon the cost thereof, and the proportion or amount of such cost which is required to construct such improvements, and may assess and levy such proportion, or amount of such cost, but not to exceed the cost of a 12-inch sewer upon the same lots and parcels of land upon the basis of an equal sum per front foot of each lot or parcel, measuring along the line of such improvements, and the City Council shall cause to be made, and shall adopt, an assessment roll thereof, which may be in any form which the City Council may deem proper.

#### Corner Lots.

Sec. 11. The City Council shall, when any corner lot has been previously assessed for laying of any sewer pipe upon a different street or avenue from the one through which such proposed improvement is to be extended, remit from the assessment of such corner lots such portion of such second assessment as shall equal the amount of assessment of the width of said lot. And in no case shall assessments be made for the laying of sewer pipe and the construction of sewers on any corner lot in said City for a distance greater than the longest abutting dimension of said lot.

#### Sidewalks.

Sec. 12. Whenever the City Council shall have ordered the construction or reconstruction of any sidewalk, it shall be the duty of the street committee to report to the City Council a list of the several lots and parcels of land with the number of feet front extending along such improvement, and the name of the owner or owners of the several lots and parcels, as nearly as they can readily ascertain the same, and their estimate of the cost of constructing or reconstructing such sidewalk.

The City Clerk shall give notice by publication twice in the official paper of the City, and in such other manner as the City Council may direct, that such report is on file in his office for inspection of all persons interested, and that the same will be presented to the City Council for action thereon at a meeting of said Council to be named in said notice, which shall be the regular meeting of said Council occurring next after one week from the second publication of said notice, at which meeting the parties interested may be heard.

At a meeting named in said notice, or

at any future meeting, the City Council, in its discretion, may order the building of such sidewalks, and thereupon, letting the contract therefor, the City Council shall assess and levy upon each lot and parcel of land, along which such sidewalk is to be or has been built, all or a portion of such sum as will cover the cost of building such sidewalk along and fronting upon the various lots or parcels of land, respectively, and cause to be made an assessment roll of the same; provided, that nothing in this section contained shall apply to cases where the owner of the property shall construct his own sidewalk as hereafter provided.

No sidewalk shall be ordered except upon recommendation of the street committee. No person shall construct any sidewalk, curb or gutter, on any street, lane or alley, in the City of Benson, where the same has not been ordered by the City Council, unless he shall first have obtained a permit from the City Council for doing such work; such permit shall regulate the manner of constructing such improvement, and shall also include whatever bond or bonds the City Council may deem necessary to protect the interest of said City.

Three-fourths Vote. Sec. 13. No improvement to be paid for by special assessment shall be undertaken without the consent, in writing, of a majority, in interest and number, of the owners of the property to be assessed; unless the ordinance therefor shall receive, on final passage, the affirmative vote of three-fourths of all the members of the City Council.

#### Sprinkling Streets.

Sec. 14. The City Council shall have power to cause the streets to be sprinkled and assess the property abutting on the streets so sprinkled for the expense thereof by an equal rate on the assessed value of such land, exclusive of buildings. Provided that notice shall be given, once, in the official paper, of the time and place where action will be taken in regard to said sprinkling, and opportunity given to all parties interested to be heard for or against such work.

#### Proceedings When Awards Are Set Aside.

Sec. 15. Whenever any portion of any award made by commissioners and confirmed by the City Council, under the provisions of section six of this chapter, shall be annulled by the Court upon appeal, as hereinbefore provided, the City Council may again appoint commissioners to view the property which was affected by such appeal, and appraise and amend the compensation and damages to be paid for the taking or appropriation of the same, and the like proceedings shall be had, so far as applicable, as described in said section six; except that such commissioners shall make no new assessment of cost and expenses. They shall, however, in arriving at the compensation and damages to be awarded, take into consideration and offset any benefits, which in their judgment, the contemplated improvements will be to the remainder of the property part of which may be taken or appropriated, and report their award to the City Council, whereupon the same proceedings may be had, as far as applicable, as upon an original award, and if such award shall again upon appeal, be annulled by the Court, still another commission may be appointed and award made in the same manner, and so on until a valid award shall be made, but no new assessments for benefits shall be made merely by reason of any changes in the amount of the sum awarded for compensation and damages, and any sum which may be lacking to pay the award shall be paid from the general fund.

#### Reassessment.

Sec. 16. If any special assessment heretofore made by the City Council or under its direction, to defray the expense of any local improvement, has been, or shall be, either in whole or in part, annulled, vacated or set aside by the judgment of any court, or if the City Council shall be satisfied that any such assessment is so irregular or defective that the same cannot be enforced or collected, or if the City Council shall have omitted to make such assessment at or before the making of such improvement, when it might, or should, have been done, the City Council shall, anew, or thereafter, compute or determine upon the cost of making such improvement in gross amount, upon such data as it shall deem sufficient, not exceeding, in the case of sewers, the sum of sixty cents per front foot; and the City Council may then proceed to cause a new assessment of the cost of such local improvements to be made either on the property fronting such improvements or on the property benefited by such improvements. In computing the cost of such improvements, the City Council shall, as nearly as may be, in proportion of the City, charter, in force at the time making such improvements, in assessing the property to be assessed, and in the form and manner of proceeding subsequent to the determination of the cost of the improvements; and in case such second assessment shall be annulled, the City Council may, upon the same day,

assessments by the Court shall be made, and the Court shall determine whether the lots and parcels are not suitable. After such assessment roll shall have been completed, the City Clerk shall note thereon, against any piece or parcel of land upon which a former assessment for the same improvement has been made, the words: "Paid on former assessment," which shall cancel such assessment on that parcel.

**How Assessment Rolls Shall Be Recorded and Returned.**

Sec. 17. The City Clerk shall record all assessment rolls of special assessment in books to be kept by him for that purpose, and shall, on or before the first day of October of each year, deliver to the County Auditor, of the County of Swift, all such assessment rolls, and the said Auditor shall extend the assessment in proper columns against the property assessed, and such assessment shall be collected and the payment thereof enforced, with and in like manner as State, County and other taxes are collected and the payment thereof enforced; such assessment, when collected, shall be paid over by the County Treasurer to the Treasurer of the City, together with all costs, penalties and interest collected thereon, at the time of making payment of City taxes to the City Treasurer. No informality to affect the validity of Assessment.

Sec. 18. No omission, informality or irregularity in proceedings in, or preliminary to, the making of any special assessment shall affect the validity of the same, where the assessment roll has been adopted by the City Council, and the assessment roll, and the record thereof kept by the City Clerk, shall be competent and sufficient evidence that the assessment was duly levied and the assessment roll duly made and adopted, and that all other proceedings antecedent to the adoption of such assessment roll were duly had, taken and performed, as required by this chapter. And no failure of the City Clerk to record the assessment roll, or to deliver the same to the County Auditor on or before the time prescribed for such delivery, or to do any other act or deed by him required shall, in any way, invalidate any assessment; and no variance from the directions herein contained as to the form or manner of any proceedings, shall be held material, unless it be clearly shown that the party objecting was materially injured thereby.

**Assessments May Be Paid to the City Treasurer.**

Sec. 19. After a special assessment shall have been adopted by the City Council, and before the same shall have been delivered to the County Auditor for assessment and collection, any assessment thereon may be paid direct to the City Treasurer; and, upon the production of the City Treasurer's receipt therefor, the City Clerk shall enter upon the assessment roll, opposite the assessment so paid, the words: "Paid to the City Treasurer," which entry shall cancel the assessment so paid.

**Balance of Cost Paid by City—When.**

Sec. 20. When the damage to be paid for the condemnation or approbation of any property, in pursuance of provisions of this charter, shall have been ascertained and determined, in the manner herein prescribed, or in case an appeal shall have been taken, as provided in this chapter, and such damages shall have been made upon the real property deemed to have especially benefited by the doing of the work, or the making of the improvement in proportion as nearly as may be to the benefits resulting therefrom, the balance of the cost of such improvement over and above the amount realized by such assessment, shall be chargeable upon, and paid by, the City at large.

#### CHAPTER X.

#### BOARD OF WATER AND LIGHT COMMISSIONERS.

##### Membership and Term.

Section 1. There is hereby established the "Board of Water and Light Commissioners of the City of Benson." Said Board shall consist of Three persons, who shall be residents and qualified electors of said City, and none of whom shall hold any other office under this charter. Said Commissioners shall hold their offices for Three years, and until their successors shall have been appointed and qualified, provided: that the first Commissioners shall be appointed for One, Two and Three years, respectively.

##### Clerk.

Sec. 2. The City Clerk shall be the Clerk of said Board, and shall have charge of the books, which shall contain a full statement of the condition and op-

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eration of the water works and light plant and everything pertaining thereto; of all moneys received and paid out by order of said Board, and all debts due, together with an accurate account of all expenses of said Board; and keep the record of all Board meetings and make out all reports and all bills and perform such other duties as the said Board may prescribe; and, on the First day of March and September in each year, the Clerk shall make and transmit to the City Council a complete and itemized financial statement of the operations, receipts and expenditures of said Board during preceding six months.

##### Treasurer.

Sec. 3. The City Treasurer shall be, ex-officio, Treasurer of said Board, and shall receive all moneys from the sale of bonds, from water or light rents, taxes, or from any source whatever, and keep account thereof in such manner as to show at all times the financial condition of said Board. He shall keep separately all moneys, pertaining to the water works and light plant in a fund to be known as the Water and Light fund.

##### Countersigning.

Sec. 4. The City Clerk shall countersign all warrants or orders drawn upon the Treasurer of said Board, and all other evidences of the indebtedness of said Board, and shall keep an account thereof, stating to whom and for what purposes issued.

##### Reports.

Sec. 5. The Board shall, on the First day of April in each year, and more often, if required by the City Council, make a report to the City Council of the condition of the water and light plant under their charge, and of the receipts and expenditures on account of the same.

##### Powers.

Sec. 6. The Board shall have charge of the construction, maintenance, repair and management of everything pertaining to the water works and light plant of said City, and shall have the supervision and direction of the working and operation of the same. The City Council shall make and execute, all contracts pertaining to the same; and said Board shall have the charge, care and supervision of the carrying out of all such contracts. Provided, that said Board shall have full authority to contract for, and incur, all expense for fuel to operate said water works and light plant and for necessary repairs for the same, and for such materials as shall be necessary for the installation of private connections; and also to provide, and contract for, such skilled workmen and ordinary labor as it shall deem necessary to operate said works.

Said Board shall also have the right to appoint, and prescribe the duties of, the Superintendent of the said plant and to designate and fix, subject to approval of the City Council, the compensation of the persons appointed or employed by said Board, and may remove such person at its pleasure.

Said Board shall prescribe and keep a system of accounts, whereby the exact costs of operation and maintenance of said water and light plant can be determined as nearly as possible. Said Board and the City Council shall, in the month of April each year, jointly determine a fair and just amount to be charged to the City and credited to said plant for the use of water and light used by the City, and bills shall be rendered to the City therefor in the same manner as to individuals. Such bills shall be paid out of the General fund and credited to the Water and Light Fund.

##### Same.

Sec. 7. All money payable for water, light or power rates, or other water works or light accounts, except money raised by taxation, shall be collected by the City Clerk as Clerk of the Board, who shall receipt therefor, and within Ten days thereafter, pay the same over to the Treasurer of said Board, taking and filing his receipt therefor. All orders, drawn upon the Treasurer by said Board, shall be signed by the President, and countersigned by the Clerk as Clerk of said Board. The Board shall hold stated meetings at such times as it shall appoint and special meetings thereof may be called by the President upon Twenty-four hours' written or personal notice; and any business may be transacted at any regular or special meeting. The Board may adopt such rules to govern its deliberation and the manner of transacting its business as it shall determine upon, and two members of the Board shall consti-

which may be organized when all members of the Board shall be present and participate, shall be legal, though no notice of such special meeting was given.

##### Same.

Sec. 8. The City Council shall provide, and furnish with suitable furniture, a suitable room for the meetings of the Board, and for offices for the Clerk and Superintendent of water works.

##### Same.

Sec. 9. The Board shall have the right to determine and direct as to the size and quality of all water mains and light wires which shall be laid in said City.

##### Same.

Sec. 10. All petitions or applications for extension of light wires and laying of water mains shall be presented to the City Council, and shall be by it referred to the Board of Water and Light Commissioners, and in the case of contemplated action, without petition, as in this charter elsewhere provided for the laying of water mains and sewers the matter of such improvement shall be likewise referred to said Board. The Board shall report thereon to the Council, designating the size of mains to be laid, with such other recommendations as the Board shall deem proper, with an estimate of the cost of such work; and whenever any contract is entered into by the City Council pertaining to the water works or light plant, the work shall be done under the supervision and control of said Board.

##### Same.

Sec. 11. If there shall not be sufficient money in said water and light fund to defray the cost thereof respectively, said Board shall report the fact to the City Council, who may thereupon, if said Council deem proper, appropriate from the general fund of said City, a sum sufficient for such purposes.

##### Same.

Sec. 12. It shall be the duty of the City Clerk to give the Board written notice of the appropriation by the City Council of all such sums, and the amount of such appropriation.

##### Same.

Sec. 13. The Board shall recommend to the Council, from time to time, the rates, which in the judgment of the Board, should be fixed by ordinance for the rent of water and light, and the provisions which are adapted to secure prompt payment of the same, and prevent injury or misuse of anything connected with said water works or light plant, and it shall be the duty of said Board and of the Superintendent of the Water Works to see that such ordinances as shall be passed by the City Council are obeyed and enforced.

##### Same.

Sec. 14. The owner of private property, which property has upon it pipes connected with the City water works, to convey water upon said property, shall, as well as the lessee or occupant of the premises, be liable to the City of Benson for the rent of all water used upon said premises; which may be recovered in action against the owner, lessee or occupant, or against any or all of them. Provided the owner shall not be liable for water furnished such tenant unless written notice of such default be given him within six months, and such action brought within one year, from such default.

##### Same.

Sec. 15. The City Council may provide by ordinance the rates or rents to be paid for the use of water, light or power, and the time when the same shall be paid, or payable, and for the shutting off of the same from any premises when the rates are payable and remain unpaid, and for the punishment of all injuries to, or unauthorized interference with, said plant or anything connected therewith.

##### Penalties.

Sec. 16. Any person who shall wilfully, and without authority from said Board, break, remove, or, in any manner, damage any of the pipes, gates, boxes, hydrants, hose, manholes, tanks, meters, wires, poles or other property of any description belonging to or in any manner connected with, said water works or light plant, or either of them, shall, on conviction thereof, be punished by imprisonment in the County jail for a term not exceeding Three months, or by a fine of not more than One Hundred Dollars.

##### Estimates.

Sec. 17. Said Board shall, on or before the First day of September in every year, report to the City Council, an estimate of the amount of money required for the water works and light plant of said City for the next succeeding fiscal year over and above probable income.

##### Levy.

Sec. 18. The City Council shall, at the time of making the annual tax levy in every year, levy, upon all the taxable property of said City, a tax, in such amount as, in the judgment of said Council, will be sufficient for the purposes aforesaid; such levy shall be in addition to the amount levied to defray the general expenses of said City. All moneys received from any such levy shall be paid into, and belong to, said water and light fund respectively, and shall not be used or appropriated for any other purpose whatever. Said levy not to exceed five mills on the dollar of assessed valuation, unless a greater amount be authorized by a vote of the electors of said City voting thereon.

## CHAPTER XI.

### FIRE DEPARTMENT.

Section 1. The City Council shall have power to establish and maintain a Fire Department in said City, to be organized, managed and conducted in such manner as the City Council may determine, and until further action by said City Council, the ordinances of the present Village of Benson, now in force, governing and providing for a Volunteer Fire Department, shall remain in full force and effect and regulate and govern said Fire Department; but said City Council shall have the right to repeal, modify or change the said ordinance and by ordinance provide any other plan or method for the organization of a Fire Department as it may see fit at any time.

## CHAPTER XII.

### HEALTH DEPARTMENT.

#### Membership.

Section 1. The Health Department shall consist of Three members, one of whom shall be a physician duly licensed to practice medicine within the State of Minnesota, of good standing in his profession, and who shall have been in practice for at least Three years. He shall be styled Health Officer. Each member of the said Department shall be a resident and elector of the City at the time of his appointment, and shall hold his office for a term of Three years and until his successor has been appointed and qualified, provided, that the first members shall be appointed for One, Two and Three years respectively.

#### General Powers, Duties.

Sec. 2. Except as otherwise provided in this charter, the members of said Department shall have and exercise all the authority and powers, and perform all the duties, granted to, or imposed upon, local Boards of Health, by the General Laws of the State of Minnesota, and such laws governing such local boards shall, so far as applicable, apply and be in force in the City.

#### Special Powers and Duties.

Sec. 3. The members of said Department in addition to the powers and duties mentioned in section Two of this chapter, shall have the following and additional powers; to enforce the laws of the State and the ordinances of the City and the provisions of this charter relative to public health; and, for the enforcement of all such laws, ordinances and provisions, they, and each of them, shall have and be vested with all the powers of Police Officers of the City.

The Health Officer, in addition to other powers and duties vested in and required of him, shall be required:

(1.) To give to the Mayor or other City authorities such professional advice and information as they may require, with a view to the preservation of the public health; and whenever he shall know or be informed of the existence of any malignant, contagious or pestiferous disease he shall investigate the same and adopt measures to arrest its progress.

(2.) It shall be the duty of the members of the Health Department to make or cause to be made a personal inspection of every part of the City from time to time, not less than once in Three months, during the period from April First to October First, and in all cases where they may discover the existence of any agent, the presence of which might prove dangerous to the health of the City, to cause the same to be removed, in accordance with the ordinances of the City, or, should there be no ordinance competent for the correction of the evil, they shall immediately report the same to the City Council, accompanied by their written opinion of the necessity of extraordinary or particular action.

Selection of Sites for Quarantine Stations.  
Sec. 4. The Health Department, by and with the approval of the City Council, may select such sites, places and boundaries for quarantine stations and purposes as may be necessary.

#### Right to Enter Buildings.

Sec. 5. For the purpose of carrying out the foregoing requirements, the Health Department shall be permitted at all times, from the rising to the setting of the sun, to enter into any house, store, stable, or other building, and to cause the floors to be raised, if they shall deem it necessary for the purpose of a thorough examination of cellars, vaults, sinks, or drains, and to cause all privies to be cleaned and kept in good condition, and to cause all dead animals,

or other nuisance or unwholesome things to be burned or removed or disposed of as they may direct.

#### To Serve Notice to Abate Nuisance.

Sec. 6. To serve notice in writing upon the owner, occupant, or agent of any lot, building or premises, in or upon which, any nuisance may be found, or upon any person who shall have caused such nuisance, requiring him to abate the same within reasonable time; and such notice may be given or served by any officer who may be directed to give or serve the same by the Health Department.

#### Providing Books for Keeping Records.

Sec. 7. It shall be the duty of the Health Officer to provide at the expense of the City the necessary books for keeping a record of all transactions of the Health Department, including the proper registration of the births and deaths and such other statistical information necessary for the official work of said Department.

#### Visiting and Examining the Sick.

Sec. 8. It shall be the further duty of the Health Officer to visit and examine or cause to be visited and examined all sick persons who shall be reported to him as suffering from any infectious or contagious disease, and to cause such person to be sufficiently quarantined, and cause him to be provided with suitable nurses and attendants at his own expense, if he is able to pay for same, but if not, then at the expense of the City.

#### Providing Equipments and Medicine.

Sec. 9. The Health Officer shall provide, under the direction of the City Council, furniture, fuel, food, medicine and such other articles as may be necessary for the equipment and maintenance of any hospital for the prevention and control of infectious or contagious disease among men or animals; and control all such hospitals, and secure the decent and prompt burial of bodies of all persons dying at such hospital. He shall, when directed by the Poor Committee of the City Council or the Board of Health, attend the poor and indigent sick in the City, and furnish at the City's expense, medicine for said persons.

#### Penalties.

Sec. 10. Any person, who without a permit from the Health Officer, shall bury or remove the body of any dead person, or shall leave unburied any such dead body longer than Four days, or who shall fail to bury the body of any person dying of any infectious or contagious disease within Twenty-four hours after death, when ordered by the Health Officer so to do; or shall refuse or neglect to abate any nuisance, for the existence of which as owner, occupant or agent of the place, upon or within which such nuisance exists, he is responsible, after having received notice from the Health Officer so to do; or who shall neglect to report the occurrence or existence of any birth, death or case of contagious or infectious disease as provided for in this charter, the ordinances of this City or the laws of the State of Minnesota, or who shall import or bring within the limits of the City knowingly any person or animal sick with contagious or infectious disease; or who shall remove or cause to be removed, without permission from the Health Officer, any placard announcing any contagious or infectious disease, and attached to any house or building or place, by the Health Officer or his subordinates; or who shall disobey or willfully avoid quarantine regulations imposed by the Health Officer, or who shall interfere with the Health Officer or his subordinates in the exercise of his or their duties; or who shall violate any of the provisions of this charter, the laws of the State, or the ordinances of the City relating to the public health, shall, upon conviction, be guilty of a misdemeanor and punished as prescribed by the ordinances of the City, or in case the offense is not punishable under the ordinances of the City, then as misdemeanors under the criminal laws of the State.

Whenever the owner or occupant of any building, structure or premises within the City shall neglect or refuse, after reasonable notice by the Board of Health or Health Officer, to observe and comply with respect to the sanitary condition of such building, structure or premises, the requirements of the law of the State, the ordinances of the City, the provisions of this charter or the rules and regulations of the Board of Health or Health Officer relative to the public health and sanitary condition of the City, then the Board of Health or Health Officer shall cause to be done in and upon such building, structure or premises whatever may be reasonably necessary to remove any cause of offense and put the same into suitable sanitary condition, in accordance with the requirements of law and the rules and regulations of the Board of Health or the directions of the Health Officer, and assess the expense thereof against the property in and upon which such expense has been incurred in the premises.

Before proceeding, however, in any case, in accordance with the foregoing provisions of the section, the City Council shall give at least Five days notice to the owner or occupant of any such building, structure or premises, of its intention to take such action and to assess the cost thereof upon said property; which notice may be served upon such owner or occupant personally, if found within the City; if not occupied and the owner does not reside within the City, then said notice may be served upon, by mailing a copy thereof to, said owner at his last known post office address.

At a meeting of the City Council at which said matter is to be heard, or at any meeting to which said matter may be adjourned, the City Council shall hear all interested parties and, if determined upon to make an assessment against said property, such assessment, for said expenses so incurred as aforesaid, may be for the full amount of such expense and the cost of notice; and before making the same, the City Council shall require the City Clerk to give notice, personally, or by mail, to the interested parties, of its intention to make such assessment upon such property, at a meeting of the City Council to be specified in said notice, and at said meeting or at any subsequent meeting to which said matter may be put over, the City Council shall hear all interested parties and shall then, or at a subsequent meeting, proceed to make an assessment against said property, which assessment shall be certified and returned to the County Auditor of Swift County, Minnesota, to be collected in the same manner as other City assessments are collected.

Nothing herein contained shall affect the right of the City to have imposed, or relieve any person mentioned in this section from any liability to any prosecution for the violation of or penalty imposed by, any ordinance of the City.

## CHAPTER XIII.

### PARK BOARD.

#### Appointment.

Section 1. There shall be appointed by the Mayor and confirmed by the Council Three Park Commissioners to be known as the Park Board, who shall have control and supervision of the parks within the corporate limits of said City, and also of such streets or portions of streets and other public grounds as the City Council shall by proper resolution designate. Said Commissioners shall hold their offices for Three years and until their successors have been appointed and qualified, provided, that the first commissioners shall be appointed for One, Two and Three years respectively.

#### Powers.

Sec. 2. Said Board shall have power, and it shall be their duty to enforce such laws of the State and ordinances of the City as they may deem necessary for the proper performance of their duties in such Department.

Money—How Appropriated and Expended.  
Sec. 3. The City Council may appropriate money from the general fund and turn the same over to said Board for the purposes of said Board as hereinabove set forth, and said Board shall have the power to expend such moneys as they may see fit in improving and beautifying such parks and public grounds, and for the purposes of furnishing entertainment for the public, on said public grounds as they may designate.

#### Parking Streets.

Sec. 4. Said Board may determine park lines along the sides of any of the streets in the residence districts of the City of Benson, within which and the sidewalk line, such portion of said street may be used for parking, and the City Council shall by ordinance establish such park lines as so recommended by said Board, and provide necessary rules and regulations for the care and maintenance of the same, provided, that the traveled roadway of any such street, shall not thereby be made less than thirty feet wide.

## CHAPTER XIV.

### MISCELLANEOUS PROVISIONS.

#### Reconsiderations.

Section 1. No vote of the City Council shall be reconsidered or rescinded at a subsequent meeting, unless at such subsequent meeting there shall be present as large a number of aldermen as were present when the vote was taken, and no such motion shall be made more than once.

#### Remitting Penalty.

Sec. 2. No penalty or judgment recovered in favor of the City shall be remitted except by the vote of three-fourths of the members of the City Council.

#### Prosecutions.

Sec. 3. In all prosecutions for any violation of the provisions of this charter, the first process shall be by warrant, on complaint being made; provided, no war-

rant shall be necessary in any case for the arrest of any person while in the act of violating any law of the State of Minnesota, or ordinance of the City, but the person or persons so arrested may be proceeded against, tried, convicted and punished or discharged in the same manner as if the arrest had been made by warrant. All warrants, process or writs by a Justice Court for the violation of any ordinance of said City, shall be directed to the Chief of Police or any police officer of said City.

#### Fines and Penalties.

Sec. 4. In all cases or the imposition of any fines or penalties, or the rendering of judgment by a Justice Court of said City, pursuant to any statute of the State of Minnesota, or pursuant to any ordinance of said City, as punishment for any offense, or for the violation of any ordinance, aforesaid, the offender shall forthwith be committed to the City prison, the common jail of the County, or any other place of detention provided by the City, and be there imprisoned for a term not exceeding ninety days in the discretion of the Justice Court, unless the said fine or penalty be sooner paid or satisfied, (and from the time of arrest of any person or persons for any offense whatever) and until the time of trial, the person or persons so arrested may be imprisoned in the City prison, or in case there be no City prison, in the common jail of the County; provided, that nothing herein shall prevent the City Council from providing by ordinance for subjecting any male offender to be kept at hard labor upon the public streets.

#### Eligibility.

Sec. 5. No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant of said City, in any proceeding or action in which the City shall be a party in interest.

#### Holding and Selling Property.

Sec. 6. The City may purchase and hold real and personal estate, for public purposes, sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

#### Library Board.

Sec. 7. The City Council may establish a Library Board, consisting of six members, appointed for a term of three years, who shall have charge of the Public Library of the City, under such regulations as the City Council may prescribe. Provided, the first Board shall be appointed for one, two and three years respectively.

#### Library Tax.

Sec. 8. The City Council may levy a special tax not to exceed two mills on the dollar of the assessed valuation of said City, for support of a Public Library, and may without a special tax therefor, appropriate in any one year, for such purpose, an amount not to exceed such amount as such a tax would produce, if same were levied.

#### Cemetery Board.

Sec. 9. The City Council may acquire ground for Cemetery purposes and may establish a Cemetery Board, consisting of three members, appointed for a term of three years, who shall have charge of all public cemeteries of the City, under such regulations as the City Council may prescribe.

#### Amendments.

Sec. 10. This charter may be amended at any time, by the Commission proposing any amendment to the people, which shall be published as provided by law, and if accepted by three-fourths of the qualified voters of said City voting at the next election, shall be declared adopted, and shall thereupon become a part of this charter. Upon application of five per cent of the legal voters of said City, by written petition addressed to, and received by the Charter Commission of said City, such Commission shall submit to the vote of the people any amendment to this charter endorsed by such application and petition, which submission shall be made in the manner provided by law.

#### Charter to Be Public Law.

Sec. 11. This charter is hereby declared to be a public act and may be read in evidence in all courts in this State, and need not be pleaded or proven.

#### Charter Not Repealed by State Law.

Sec. 12. No law of this State, concerning the provisions of this charter, hereafter passed, shall be considered as repealing, amending or modifying the same, unless such purpose be clearly set forth in such law.

#### City Not Liable for Jail Fees in State Cases.

Sec. 13. The city of Benson shall not be liable in any case for the board, sheriff's fees, or jailor's fees of any person who may be committed to the jail of Swift County, under the laws of this State.

#### No Public Property to Be Disposed of without Authority of Council.

Sec. 14. No City Officer or employee of the City shall sell, dispose of, or convert to his own use, any City property in his charge, without special authority from the City Council.

#### Limitation of Actions.

Sec. 15. No action shall be maintained against the City of Benson on account of, or to recover damages for, any injury or loss alleged to have been received or suffered by reason of any defect in any bridge, street, road, sidewalk, park, public ground, public building or public works of any kind; or by reason of any alleged negligence or misconduct of any officer, agent, servant or employee of the City, at any time or place, unless the person claiming to have sustained such injury or loss, or his lawful representatives, shall, within thirty days, or if the alleged injury shall have resulted in the death or insanity of the person injured, then within sixty days, after the happening of such injury or loss, present his or their claim to compensation, damages or other relief on account thereof to the City Council in writing, stating the time when, the place where, and the circumstances under which such injury or loss occurred, and the amount of compensation or the nature of the relief demanded from the City, and give said Council ten days time after such claim is so presented, within which to decide upon the course it will pursue with relation to such claim; nor shall any action be maintained unless the same shall be commenced within one year after the happening of such alleged injury or loss.

#### Adverse Possession.

Sec. 16. No right, title, estate or easement of the City, in or to any property, shall be lost by any adverse possession or occupancy; and no statute of limitations shall run or operate against the City in favor of any person or persons occupying any of the public or platted streets, grounds, parks, parkways or boulevards of the City, whether any such streets or grounds or any such property shall be improved or not.

#### Process Against the City.

Sec. 17. When any suit or action shall be commenced against said City, all and every process and notice whatever affecting said City, shall be served upon the Mayor; or, in case of his absence from the City, upon the City Clerk; and a copy thereof shall be filed in the Office of the City Clerk; provided, that when the issues have been joined in any action or proceeding, all further notices or papers proper to be served in such matter, shall be served upon the City Attorney, who shall file a report thereof with the City Clerk.

#### Security on Appeal.

Sec. 18. The City shall not be required, in taking an appeal, or in suing out any writ or process, in or about any action or proceeding, to enter into any bond or undertaking, or to give any security whatever. Any stay allowed by law or ordered by the court in favor of the City shall take effect without the giving of any such bond or security.

Sec. 19. The City of Benson may accept, a grant or devise of real estate situate within its limits, and of personal property for improvement and equipping the same, or for any other lawful purpose, and may maintain and administer the same, for the benefit of its citizens, in accordance with the terms prescribed by the donor. Provided that nothing herein shall authorize, such acceptance, for religious or sectarian purposes. Every such acceptance shall be by resolution of the City Council adopted by a three-fourths vote of its members expressing such terms in full.

To J. N. Edwards, President of the Village of Benson, Minnesota.

We, the undersigned, appointed by the District Court of Swift County, Minnesota, on the 9th day of September, 1907, as a commission to draft a proposed City Charter for the present Village of Benson in accordance with the provisions of Section Thirty-six (36) of Article Four (4) of the Constitution of the State of Minnesota, and Chapter Nine (9) of the Revised Laws of the State of Minnesota for the year 1905, and the Acts amendatory thereof, do hereby respectfully submit and return to you the foregoing as a draft of a proposed Charter for a City to be created out of the present Village of Benson.

Dated February 7th, 1908.

C. L. SCOFIELD.  
A. WILSON.  
C. B. McCUNE.  
R. E. JOHNSON.  
A. J. HOLLAND.  
W. D. COLES, JR.  
S. H. HUDSON.  
MAGNUS PEDERSON.  
H. O. SANDBO.  
JULIUS THORSON.  
P. S. GALLAGHER.  
F. O. THORNTON.  
H. W. STONE.  
A. N. JOHNSON.  
M. HOBAN.

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