

Form No. 865.

STATE OF MINNESOTA, }  
County of St. Louis. } ss.

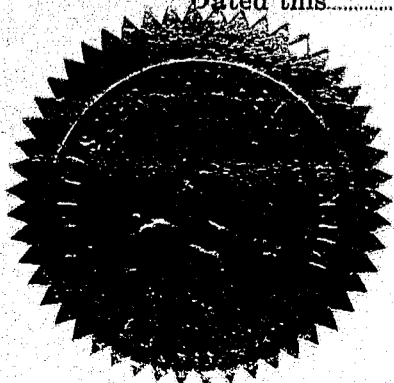
I, Charles Calligan, Register of Deeds of said County, do hereby certify that the within is a true and correct copy of the record in my office as found in Book 89 of Misc. Records on page 303 copy That I have compared such copy with the original record and that it is a correct transcript therefrom.

Dated this 18 day of Sept, A. D. 1911

CHARLES CALLIGAN,

Register of Deeds.

By led Palmer  
Deputy.



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shall be the mayor, clerk and three councilmen, respectively, of the City of Biwabik under this charter until their terms of president, clerk or trustees of the village council expire and all other elective and appointive officers of the village shall hold their similar offices under the city until their terms under the village would expire.

Section 70. Application of General Laws. All general laws and statutes of the state applicable to all cities operating under home rule charters and applicable to cities of the same class as the City of Biwabik operating under home rule charters, and not inconsistent with the provisions of this charter, shall apply to the City of Biwabik and shall be construed as supplementary to the provisions of this charter. The city shall have all powers and authority granted by the laws of the state to municipalities to acquire property or exercise authority or powers beyond the corporate limits. All powers by this section conferred shall be exercised conformably to this charter so far as may be possible, and such authority and power shall not authorize the city to incur any bonded debt beyond the limitations, or in any other manner than authorized by this charter.

Section 71. Existing Ordinances, Regulations, Boards and Commissions, Continued. All ordinances, regulations, boards and commissions of the municipality in force and existing when this charter takes effect, and not inconsistent with the provisions hereof, are hereby continued in full force and effect until amended, repealed, vacated or abolished.

Section 72. Ordinances to Make Charter Effective. The council is hereby empowered to, and it shall by ordinance, resolution or motion, make such regulations as may be necessary to carry out and make effective the provisions of this charter, and to prescribe penalties for the violation of any ordinance or regulation not inconsistent with the laws of the state.

Section 73. Conflicting Provisions. If there is any provision of this charter which conflicts with any other provision of this charter, the city council may follow the provision of its choice.

Section 74. Ordinances Need Not Be Plead. In all actions, prosecutions, and proceedings of all kinds in the Justice Courts of the city, the justices of the peace shall take judicial notice of all ordinances of the city and it shall not be necessary to plead or prove such ordinances in said courts.

Section 75. Service of Process. Whenever any suit or action shall be commenced against the city, except garnishment proceedings, all and every process and notice whatsoever affecting the city shall be served upon the Mayor, or, in his absence, upon the City Clerk and it shall be the duty of the officer so served to forthwith inform the city council and city attorney thereof.

Section 76. Provisions Severable. The various sections and provisions of this charter, and the clauses, phrases, and sentences thereof, shall be severable, and if any section, part or provision thereof shall be held to be invalid, it shall not be construed as invalidating any other part or portion thereof.

Section 77. Donations. The city council may donate to and pay dues to the League of Minnesota Municipalities, the Range Municipalities Association, the American Red Cross, Local Fourth of July committees, the Arrowhead Association, the local Garden Club and such other organizations and things that the municipality may be wholly or partly interested in.

Section 78. Municipal Trips. Municipal travel or trips on municipal business, taken at the expense of the city or any department, board or commission thereof shall not cost the city for each person more than the cost of transportation and \$10 per day for other expenses, plus an extra day's expense in going to and from the other municipality.

CERTIFICATE OF COMMISSION

We, the undersigned, being duly appointed, qualified and acting members of the Board of Freeholders (Charter Commission) in and for the Village of Biwabik, St. Louis County, Minnesota, hereby certify that the foregoing document consisting of 78 sections, numbered 1 to 78, both inclusive, is the draft of a proposed charter prepared and framed by said Board of Freeholders, and hereby affix our signatures to said draft in testimony of our approval thereof, and deliver the same to the Honorable Wm. O. Jones, President of the Council of said Village, as the chief magistrate or executive thereof, for action pursuant to law.

Dated at Biwabik, Minnesota, this 15<sup>th</sup> day of August, 1941.

<u>[Signature]</u>	<u>Nick Jalus</u>
<u>Joe M. Licari</u>	<u>Luigi Ribich</u>
<u>R. E. Chellew</u>	<u>[Signature]</u>
<u>G. Miners</u>	<u>Victor Popola</u>
<u>Charles Milner</u>	<u>H. J. Millbrook</u>
<u>John Goffard</u>	
<u>Karl Schuster</u>	
<u>Geo. G. Colvin</u>	

The foregoing draft of a proposed Charter and certificate in connection therewith received this 15 day of August, 1941.

W. O. Jones,  
President of Village Council  
and chief magistrate or  
executive of the Village of  
Biwabik, St. Louis County,  
Minnesota.

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STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
SEP 23 1941

*Wm. A. ...*  
State

Biwabik, Minnesota  
August 30, 1941

The village council of the Village of Biwabik met in a special session in the village hall in the Village of Biwabik on August 30, 1941, at 11:00 A.M. by virtue of the call in writing of two members filed in the clerk's office and due and proper notice having been given in writing to each member of the council, for the purpose of canvassing the results of the special village election, held August 29, 1941, to determine whether the proposed charter of the City of Biwabik was ratified.

Roll Call:

Present: Trustee Salo, Clerk Petrella and President Jones.

Absent: Trustees Niemi and Gustafson.

The results of the special village election, held August 29, 1941, were canvassed by the council, and the report of the judges and clerks of the election was adopted without alteration, and the vote on the question "shall the proposed (city) charter be adopted (pursuant to Article 4, Section 36, of the state constitution)?, as canvassed by the council is as follows:

There were cast for ratification of the proposed city charter 357 votes.

There were cast against ratification of the proposed city charter 161 votes.

There was one spoiled and uncounted ballot.

There were 519 ballots cast.

Since the proposed city charter was ratified by more than four-sevenths of those voting on the question, the proposed city charter was declared adopted and the Village of Biwabik was declared to be the City of Biwabik on and after September 29, 1941, pursuant to Article 4, Section 36, of the state constitution and the statutory provisions applicable thereto.

It was moved by Clerk Petrella and supported by Trustee Salo that the meeting adjourn.

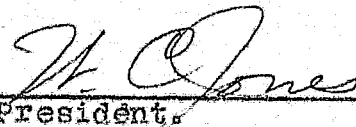
Roll Call:

Ayes: Trustee Salo, Clerk Petrella and President Jones.

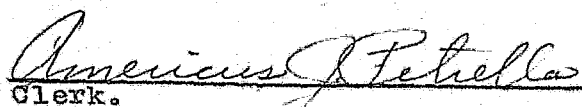
Nays: None.

Absent and not voting: Trustees Niemi and Gustafson.

The motion was declared carried and the meeting declared adjourn-  
ed.

  
\_\_\_\_\_  
President.

ATTEST:

  
\_\_\_\_\_  
Clerk.

STATE OF MINNESOTA  
COUNTY OF ST. LOUIS  
VILLAGE OF BIWABIK

I hereby certify that I have compared the within and attached copy of the minutes of the canvassing board of the Village of Biwabik, dated August 30, 1941, with the original thereof now on file in my office, and that it is the true and correct copy of the same, and of the whole thereof.

Dated September 10, 1941.

*Americus J. Petrella*  
Clerk, Village of Biwabik, Minnesota.

Duplicate CERTIFICATE OF ADOPTION

STATE OF MINNESOTA

COUNTY OF ST. LOUIS      SS

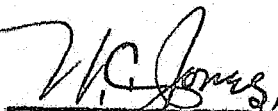
VILLAGE OF BIWABIK

I, W. G. Jones, president of the village council of the Village of Biwabik, St. Louis County, Minnesota, and as such the Chief Magistrate of said village, do hereby certify that the Charter hereto attached, and hereby expressly made a part of this certificate, is the Charter returned and filed with the Chief Magistrate of said village of Biwabik by the Board of Freeholders duly appointed, qualified and acting as a commission to frame the said Charter, and is the Charter submitted to the voters of the said village of Biwabik for ratification and adoption at the special election held in said village on the 29th day of August, 1941, and that said Charter was duly ratified and adopted by the voters of said village of Biwabik on said 29th day of August, 1941, at said special election by the following vote, to-wit:

In favor of the adoption of said Charter 357 votes.  
Against the adoption of said Charter 161 votes.  
Number of spoiled ballots 1.

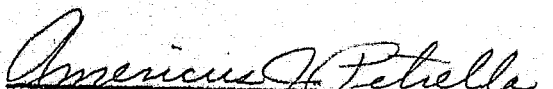
That the votes cast at said special election were duly canvassed on August 30, 1941, by the village council of the village of Biwabik, acting and sitting as the canvassing board, and said Charter was thereupon by said board declared duly ratified and adopted by said vote, and the undersigned makes this certificate setting forth the said Charter, and the ratification and adoption thereof, pursuant to and in conformity with the provisions of Section 36, Article 4, of the Constitution of the State of Minnesota, and of Section 1285 of Mason's Minnesota Statutes for 1937 and acts amendatory thereof.

Witness my hand and the corporate seal of the said village of Biwabik this 5th day of September, 1941.



W. G. Jones  
President, Village Council,  
Biwabik, Minnesota

ATTEST:

  
Village Clerk

OFFICE OF REGISTER OF DEEDS

STATE OF MINNESOTA

County of St. Louis

618826

I hereby certify that the within Instr-

ment was filed in this office for record

SEP 18 1941 at 8 a M

and was duly recorded in Book 89

of Misc Page 303

CHAS. CALLIGAN

CHAS. CALLIGAN

REGISTER OF DEEDS

By *W. E. Anderson*

Chapter

Administration of City Affairs	1
Enlightenment	7
Form of Government and Officers	2
Franchises	2
Miscellaneous and Transitory Provisions	10
Name, Boundaries, Powers and General Provisions	1
Nominations and Elections	3
Procedure of City Council	3
Public Improvements and Special Assessments	6
Public Ownership and Operation of Utilities	9
Taxation and Finance	8

Sections

Section

Accounts and Reports	34	
Acquisition of Property	2,	44
Administrative Departments	6	
Adverse Possession	64	
Annual Reports of City Clerk	21,	63
Application of General Laws	70	
Appointive Officers	31	
Appropriation of Money	34,	59
Assessments	41	
Assessor	7	
Attorney	21	
Audit of Accounts	34	
Ballots	7	
Bond Fund	33a	
Boards and Commissions	6	
Bond Fund	33b	
Bonds	33c,	36
Form and Repayment of	36	
Outside Debt Limit	36	
Bonded Debt Limitations	35	
Boundaries	1	
Cash Basis Provisions	29	
Canvass of Elections	7	
Certificates of Indebtedness	3,	29
Charter a Public Act	4,	78
Cemetery Fund	33e	
Chief of Police	21	
City of Sivabil, name	2	
City Affairs, Investigation	13	
City Council:		
Meetings	31	
Officers	5,	7
Powers and Duties	21	
Rules of Procedure and Business	14	
Special Meetings	15	
Salaries of	11	



Sections

City Plan	39		
Enforcement of	40		
City Property, Not Lost by Adverse Possession	64		
Sale of Real Property	66		
City Rights and Obligations	69		
<del>City Service for Policemen</del>	7	31	
Council	5	7	
Construction of Charter	3	76	77
Contracts	23	83	88
Damage Suits	67		
Debt Limitations	35		
Bonds Outside	38		
Departments of Administration	30		
Disbursements	29		
Exchange of Employees	21	77	
<del>Sections of Cities</del>	7		
Annual	7		
Special	7		
<del>Police's Domain</del>	41	40	
Payment of Award	46		
Power to Acquire Property	44		
Procedure	45		
Public Utility	48		
Employees	31		
Existing Ordinances Continued	71		
Finance	24		
Fire Department	6		
Firemen's Relief Fund	33		
Fire Fund	33		
Fiscal Year	25		
Form of Government	5		
Franchises	49	56	
Conditions of	55		
Definition Exclusive	49		
Limitations of	61		
Ordinances	50		
Publication	61		
Rates	54		
Regulation	53		
Funds	33		
Band Fund	33a		
Bond Fund	33b		
Comptroller Fund	33c		
Fire Fund	33d		
Firemen's Relief Fund	33e		
General Fund	33f		
Library Fund	33g		
Replacement Fund	33h		
Water and Light Fund	33i		
Other Funds	33j		
General Laws Applicable	70		
General Fund	33		
Government, Form of	5		
General Welfare Clause	8		
Health Board	6		
Health Officer	6		
Improvements	61		
Incompatible Officer	6		
Indebtedness	31		
Investigation of City Affairs	12		
Judgment for Damages	67		
Judges and Clerks of Election	7		
Justices of the Peace	7	81	
Release of Property	2		
Levies	33		

31  
7  
76  
83

7(a) = 7(2)

56

81

Sections

Library Board and Fund	6,	33c
Local Improvements	42	
Mayor	7,	10
Acting Mayor	10	
Salary of	11	
Minutes	17	
<del>Names of City Officers</del>	<del>67</del>	<del>0, 21</del>
Terms of	7,	69,
Official Bonds	63	
Official Publications	62	
Ordinances	14,	15, 71
Amendment and Repeal	13	
Codification	19	
Conflicting	73	
Existing Ordinances Continued	71	
Franchise	50	
Procedure	16	
Signing and Publication	16	
To Make Charter Effective	72	
Need Not Be Pleaded	74	
<del>Names of Officers</del>	<del>21</del>	<del>6</del>
<del>Powers of City</del>	<del>3,</del>	<del>26</del>
Process Service	75	
Property, Sales of	65	
Public Improvements	41	
City Plan	39	
Levy and Assessment of Cost	41	
Local Improvement Regulations	43	
Public Works	42	
Publications	16,	17, 62
Public Utilities	57,	61
Acquisition and Operations	57	
Lease of Plants	60	
Purchase of Products	59	
Rates and Finances	58	
Sale or Abandonment by City	61	
Purchases	22	
Removal of Employees	21	
Replacement Fund	331	
Resignation of Officers	9	
Resolutions	15,	16
Rules of Procedure	14	
Sales of Property	65	
Salaries	11	
Seal	3	
Special Assessments	41	
<del>Street Control of</del>	<del>2</del>	<del>21(4)</del>
<del>Summons or Process</del>	<del>75</del>	
Taxation	26	
Anticipation Certificate	20	
Levy and Collection	27	
Settlement	29	
Power of	2,	26
Terms of Officers	7,	69
Treasurer	7,	51, 53c
<del>Vacancies in Office</del>	<del>78</del>	<del>7,</del>
<del>Vacation of Streets</del>	<del>66</del>	<del>9</del>
Water and Light Commission	6	
Water and Light Fund	33b	
Year, Fiscal	25	

CHARTER  
of the  
CITY OF BIWABIK, MINNESOTA

Chapter 1.

Name, Boundaries, Powers and General Provisions.

Section 1. Name and Boundaries. Upon taking effect of this charter the Village of Biwabik in the County of St. Louis and State of Minnesota shall become a city under the name and style of the City of Biwabik, and shall continue to be a municipal corporation with the same boundaries as now are or hereafter may be established.

Section 2. Powers of the City. The City of Biwabik shall have all powers of local self-government and home rule and all other powers possible for such a city to have under the constitution and laws of the State of Minnesota, and shall have such powers possessed by municipal corporations at common law which are not in conflict herewith or with the constitution and laws of the State of Minnesota, and also shall have all powers granted by the general laws of Minnesota for any city of the fourth class which are not in conflict or inconsistent with, or in derogation of, the powers granted or enumerated in this Charter. The City of Biwabik, by and in its corporate name, shall have perpetual succession; may sue and be sued; may have and may use a seal to be known as "City of Biwabik, Minnesota," and may alter its seal at pleasure; shall be capable of contracting and being contracted with; may take by gift, devise, purchase, or condemnation, or otherwise, and hold, lease, sell and convey all such real and personal property as its purposes may require, or the transaction of its business may render convenient, within or without its boundaries, needed for the full discharge of any public function which it is permitted to exercise; may acquire, construct, own, lease, and operate public utilities, and render public services of every kind; may grant franchises or licenses for the construction, operation and maintenance of public utilities in, under, upon, and over the streets and public places in the city, and shall have power to fix and regulate the fares, tolls, or charges which may be collected, order the extensions which shall be needed, and regulate the services which shall be rendered by any owner or operator of a public utility franchise or license; may levy and collect taxes for general and special purposes on all subjects or objects which the city may lawfully tax; may borrow money on the faith and credit of the city or on a public utility or other property owned by the city, by the issuance and sale of bonds or certificates of indebtedness; may appropriate the money of the city for all lawful purposes, including the expenses of its officers, employees, agents and representatives in the furtherance of its business or their municipal education; may provide for, construct, regulate, and maintain public works and local improvements; may levy and collect assessments for local improvements; may license and regulate persons, corporations and associations engaged in any business occupation, trade or profession; may prohibit, abate, suppress all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the city, and all nuisances and causes thereof; may regulate and construct height and materials used in all buildings, and the

maintenance and occupancy thereof; may regulate and control the use for whatever purposes of the streets and other public places; may make and enforce local police, sanitary and other regulations; may pass ordinances for maintaining and promoting the peace, good government, and welfare of the city, and for the performance of all the functions thereof; shall have, retain and may exercise all powers, functions, rights, and privileges, heretofore possessed by it as a municipal corporation; may exercise such powers beyond its corporate limits as may be necessary for the effective exercise of any powers granted herein as now authorized by law; and in addition thereto, the City of Biwabik shall have and exercise all powers, functions, rights, and privileges exercised by, or which are incidental to or inherent in, municipal corporations and are not denied to it by the constitution and general laws of the State of Minnesota. The enumeration of powers herein shall not be construed to limit or restrict the powers granted in general terms, nor shall any specific power granted in this charter be construed to limit or restrict the powers granted in this section. In addition to the powers herein and hereafter granted, the City of Biwabik shall have full power to deal with all matters of municipal concern and for complete self-government in harmony with and subject to the constitutions and laws of the State of Minnesota.

Section 3. Construction of this Charter. The provisions of this charter shall be construed liberally in favor of the city to the end that it may have all necessary powers for the efficient conduct of its municipal affairs, as contemplated by the municipal home rule provisions of the constitution and laws of the State of Minnesota. The specific mention of particular municipal powers in other sections of this charter shall not be construed as limiting the powers of the city in the premises to those thus mentioned.

Section 4. Charter a Public Act. This charter shall be a public act and need not be pleaded or proved in any case. It shall take effect thirty days from and after its adoption by the voters.

## Chapter 2.

### Form of Government.

Section 5. Form of Government. The form of government established by this charter shall be known as the "Mayor-Council Plan." All discretionary powers of the city, both legislative and executive, shall vest in and be exercised by the city council. It shall have complete control of the city administration.

## Section 6. Records and Commissions

(a) The council shall itself be, and shall perform the duties and exercise the powers of, all local boards and commissions except as herein otherwise provided. It may, however, by ordinance, resolution or motion create commissions with advisory powers to investigate any subject of interest to the municipality, and also a commission to prepare a city plan subject to the approval of the council. Such commissions may be given the power to administer oaths and to compel the attendance of witnesses and the production of books, papers, and other documentary evidence.

(b) The council, together with the health officer if any, shall be, and shall perform the duties and exercise the powers of the local board of health. Such health officer shall be appointed by the council. He shall be a physician duly licensed to practice medicine in the State of Minnesota, and of good standing in his profession.

(c) There shall be a Water, Light, Power and Building Commission which shall have the same commissioners and officers, until their successors are appointed and qualified, as the Village of Biwabik Water, Light, Power and Building Commission had when this Charter became effective, and the Water, Light, Power and Building Commission of the City of Biwabik shall function under and be governed by Mason's Minnesota Statutes of 1927, Sections 1952 to 1959, both inclusive, and all laws amendatory thereof and supplementary thereto now or hereafter existing, provided, however, that until September 1, 1943, the secretary's salary shall not be more than \$105 per month, and from and after September 1, 1943, the secretary shall receive no salary as such, but the members of the commission may receive the same amount of salary that the city councilmen receive, except that the commissioner whose term expires in 1944 shall receive no salary from September 1, 1943, to September 1, 1944.

(d) There shall be a Library Board which shall have the same directors and officers, until their successors are appointed and qualified, as the Village of Biwabik Library Board had when this Charter became effective, and the city Library Board shall function under and be governed by Mason's Minnesota Statutes of 1927, Sections 5601 to 5606, both inclusive, and all laws amendatory thereof and supplementary thereto now or hereafter existing.

(e) There shall be a Biwabik Volunteer Fire Department which shall have the same officers, until their successors are elected or appointed and qualified, as the Village of Biwabik Volunteer Fire Department had when this Charter became effective, and the Biwabik Volunteer Fire Department of the City of Biwabik shall function under and be governed by Village of Biwabik Ordinance No. 28 and such further or other regulations as may hereafter be prescribed by ordinance by the city council and the constitution and by-laws of the Biwabik Volunteer Fire Department of the Village of Biwabik and all laws of the state of Minnesota relating thereto.

(f) ~~There shall be a Police Civil Service Commission with powers and duties as prescribed by 1940 Supplement to Mason's Minnesota Statutes for 1927, Sections 1934-47 to 1935-03a, both inclusive, and all laws amendatory thereof and supplementary thereto now or hereafter existing, provided, however, that each member of the Commission shall receive nothing for his services and provided that all policemen regularly employed (whether part time or not) at the time of the taking effect of this charter shall automatically continue employment as policemen and shall automatically come under the jurisdiction of the Civil Service Commission and provided that all salaries, duties, and hours or days of service of the policemen shall be regulated by the city council. If upon written application from the council to the Police Civil Service Commission for the employment of a policeman one is not appointed within two weeks by written order, the council may appoint one who shall have the same status under the jurisdiction of the commission as if appointed by the commission.~~

Section 7. Elective Officers and Date of Election.

(a) The council shall be composed of a mayor, three councilmen and a clerk, who shall be qualified electors and all of whom shall have the right to vote at council meetings, and who shall be elected at large in the manner hereinafter provided. The mayor shall preside at all council meetings at which he is present and shall have an equal vote with other members of the council on any matter coming before that body, and he shall have no veto power. The resident electors shall choose the following named officers, namely: a treasurer, two constables, two justices of the peace, and a council composed of a mayor, a clerk and three councilmen. All officers upon their qualification as such shall hold office until their successors qualify. Vacancies in office may be filled, for the remainder of the term for which said respective officers were elected, by the council; if the council because of equal division of votes is unable to fill the vacancy, then the mayor shall fill the vacancy by appointment for the unexpired term. All city elections for the terms and in the manner herein provided shall be held annually on the first Tuesday after the first Monday in December in each year at which the above named officers shall be elected for the terms following, to-wit: Mayor, for a term of two years; one councilman, for a term of three years; one clerk for the term of two years; and all other such officers, each having a term of two years. All terms, except as herein otherwise provided, shall commence on the first secular day of January following the election.

(b) Special city elections may be ordered by the city council, upon its own motion or upon the petition of fifty resident voters, of which at least ten days' posted and one week's published notice in one or more legal newspapers published in said city, if there be one, shall be given, clearly setting forth the question submitted, Judges and clerks shall be appointed, the vote taken, and the results ascertained, declared and certified as in the case of annual city elections; provided, however, that no proposal so submitted shall be deemed carried, without such a majority in its favor as may be required by law in the particular instance; provided, further, that in the case of a tie the proposal shall be deemed lost.

(c) The conduct of city elections, the affidavit of candidacy, the preparation of ballots by the city clerk, the selection of polling places, the Australian ballot system, and the application of the general election laws as stated in Sections 15 to 20, both inclusive, of Chapter 4 of Part 11 of Laws of Minnesota for 1939, Chapter 345, shall apply to the City of Biwabik except that affidavits of candidacy shall be filed not less than fourteen days preceding the city election.

(d) Nothing in this charter shall be construed as having the effect of separating the city of Biwabik from the town of Biwabik for assessment or election purposes; and such city and town shall constitute a single election and assessment district in the same manner as provided by law for towns and villages which have not by proper legal procedure become separated for election and assessment purposes, but the town of Biwabik and the city of Biwabik may at any time become separate election and assessment districts through the statutory procedure for the separation of villages and towns.

(e) If more than two candidates have filed for mayor or councilman or clerk at any general municipal election in the city, the candidates shall be nominated by a primary election, and the names of the two receiving the highest number of votes for each office shall be placed upon the general ballot. The primary election for such nominations shall be held on the Tuesday preceding the general municipal election. The judges of election, the clerks, the place of election, the hours for opening and closing the polls and all other procedure shall be designated by the city council.

Section 8. Incompatible offices. No member of the council shall hold any other paid municipal office or employment under the city except the city clerk; and until one year after the expiration of his

term as mayor or councilman or clerk no former member shall be appointed to any said office or employment under the city which office or employment was created or the emoluments of which were increased during his term as mayor, councilman or clerk.

Section 9. Vacancies in the Council. A vacancy in mayor, council, clerk and other elective and appointive offices shall be deemed to exist in case of the failure of any person elected thereto to qualify, within ten days after the written notification of his election by the city clerk, or by reason of the death, resignation, removal from office, removal from the city, continuous absence from the city for more than three months, or for conviction of the felony of any such person whether before or after his qualification; or by reason of the failure of any such person without good cause to perform any of the duties of membership in the council for a period of three months. In each such case, the council shall by resolution declare such vacancy to exist and shall forthwith appoint an eligible person to fill the same as in this charter provided.

Section 10. The Mayor. The mayor shall be the presiding officer of the council, except that a president pro tempore shall be chosen who shall serve as president in the mayor's absence, and as acting mayor in case of the mayor's disability or absence from the city. The mayor shall be the chief executive officer of the city, and shall exercise all powers and perform all duties conferred and imposed upon him by this charter, the ordinances, resolutions and motions of the council of the city, and the laws of the state. He shall be recognized as the official head of the city for all ceremonial purposes, by the courts for the purpose of serving civil processes and by the governor for the purpose of martial law. In time of public danger or emergency he may, with the consent of the council, take command of the police, maintain order and enforce the law.

Section 11. Salaries. The mayor shall receive \$50.00 per month, each councilman \$35.00 per month, and the clerk such an amount each month as may be determined by the council. All subordinate officers and other officers and employees of the city shall receive such salaries and expenses or wages as may be fixed by the council by ordinance, resolution or motion or as may be allowed by the council. After January 1, 1942, the mayor and councilmen shall receive such salaries as a president and the trustees of a village of similar population and assessable valuation would receive under laws of Minnesota for 1941, Chapters 331 and 343 and all laws amendatory thereof and supplementary thereto now or hereafter existing. After January 1, 1944, the salary of the Mayor shall be \$10 per month; the councilmen shall receive \$75 per year; the members of the Water, Light, Power and Building Commission shall receive \$50 per year each. No greater amount than \$200 per year shall be spent by the Water, Light, Power and Building Commission for trips.

Section 12. Investigation of City Affairs. The council and any officer or officers authorized by it shall have power to make investigation into the city's affairs, to subpoena witnesses, administer oaths, and compel the production of books and papers. The council may at any time provide for an examination or audit of the accounts of any officer or department or board or commission of city government.

#### Chapter 5.

##### Procedure of Council.

Section 13. Council Meetings. The council shall meet at such times as may be prescribed by ordinance, resolution or motion, except that they shall meet not less than once each month. The mayor, or any two members of the council, may call special meetings of the council upon at least twelve hours' written notice to each member of the council. Such notice shall be delivered personally to each member or shall be left with some responsible person at the member's usual place of residence or mailed to such member, but the notice and the amount of notice may be waived by any member and the special meeting shall be properly called and held if all members are present without the usual notice given them. All meetings of the council shall be public, and any person shall have access to the minutes and records thereof at all reasonable times.

Section 14. Rules of Procedure and Quorum. The council shall determine its own rules and order of business, and shall keep a journal or minute book of its proceedings. A majority of all members elected shall constitute a quorum to do business, but a less number may adjourn from time to time. No ordinance, resolution, motion or other procedure shall be adopted unless there are at least three votes in favor of it. The council may provide by ordinance, resolution or motion or rule a means by which a minority may compel the attendance of absent members.

Section 15. Ordinances, Resolutions and Motions. Except as in this charter otherwise provided, all legislation and all appropriations of money shall be by ordinance, resolution or motion. Every final vote upon all ordinances, resolutions and motions, and upon all amendments thereto, shall be by eyes and nose, and the vote of each member shall be recorded in the minutes. A majority vote of all the members of the council shall be required for the passage of all ordinances, resolutions and motions. Any administrative rule or regulation of any department of the state of Minnesota affecting the city, or any statute of the state of Minnesota, or any published code, specifications or regulations prepared by an official or unofficial organization for general circulation and use, may be adopted and incorporated by reference thereto in an ordinance and filing it for reference and inspection in the office of the city clerk, and the publication requirements of this charter shall be as fully satisfied in such cases by this method as if the said material had been set forth in the ordinance in full.

Section 16. Procedure on Ordinances. All ordinances, resolutions and motions shall be enacted by majority vote of all the members of the council. All ordinances shall be signed by the mayor and attested by the clerk, and published once in a newspaper in the county. Proof of such publication, by affidavit of the printer or foreman in office of said newspaper, shall be attached to and filed with such ordinance, and the same shall be prima facie evidence of the facts therein stated. All ordinances shall be suitably entitled, and in this style: "The City of Hibbik does ordain as follows:"

Every ordinance shall have two public readings in full unless the second reading of the ordinance is dispensed with by unanimous consent. All legislation prescribing ~~60~~ penalty for violation thereof shall be enacted in the form of ordinances.

All ordinances shall take effect and be in force from and after their passage and publication, shall be recorded in a book kept for that purpose, and shall have the force of law, and remain in force until repealed.

Resolutions shall be read in full, if in writing, before a vote is taken thereon, unless the reading of a resolution is dispensed with by unanimous consent, and the resolution may be spread upon the minutes of filed with and preserved by the city clerk.

Section 17. Publication of Minutes. The minutes of each meeting of the council may be published in the official newspaper of the city, but the salary and labor pay rolls may be omitted from the publication of the minutes.

Section 18. Amendment and Repeal of Ordinances. No ordinance or section thereof shall be amended or repealed except by ordinance, and every such amendment or repeal shall refer to the ordinance so amended or so ~~repealed~~ repealed by title and section number or numbers.



Section 19. Revision and Codification of Ordinances. The ordinances of the city may from time to time by a single ordinance be revised, re-arranged and codified with such additions and deletions as may be deemed necessary by the council. Such codification may be published in book form and made available by the council in the office of the city clerk for general distribution to the people. Such publication shall be a sufficient publication of all the ordinances therein contained. Every book shall contain a printed certificate of the mayor, attested to by the city clerk, that the publication is correct; and such book so published shall be received in evidence in all courts for the purpose of proving the ordinances therein contained, the same as though the original ordinances were produced in court.

The second reading of the ordinance and all rules of procedure of the council, except the first reading of a proposed ordinance, may be temporarily suspended by the unanimous vote of the council.

#### Chapter 4.

##### Administration of City Affairs

Section 20. Departments of Administration. The council may create such departments, commissions, divisions, and bureaus for the administration of the city's affairs as may seem necessary, and from time to time alter the powers and organization of the same.

Section 21. (a) Other Officers and Employees and Their Duties and Terms. There shall be a city attorney, one or more policemen (~~one of whom may be designated by the Police Civil Service Commission as chief of police~~), a full time street commissioner and such other officers and employees as the council may create or appoint by ordinance, resolution or motion. All appointive officers and employees, except those entitled to veterans' preference under the laws of this state, may be discharged by the council at its pleasure without notice and without cause and except those employed by the Water, Light, Power and Building Commission and the Library Board.

(b) City Clerk - Powers and Duties. The powers and duties of the city clerk, which may be changed or increased at the pleasure of the council, shall be as follows:

1. He shall be the chief accounting officer of the city. He shall keep a complete set of books, showing in detail the business and financial affairs and the accounts of the city. The city council shall have authority to prescribe the form of such books or accounts and also to prescribe and enforce such methods of accounting as it may deem best for the interests of the city.

2. He shall keep the corporate seal of the city and all papers and records of the city except as otherwise provided in this charter.

3. He shall be the clerk of the council and shall attend all its meetings and keep a record of all its proceedings in books to be provided therefore.

4. He shall sign all orders and bank checks on the city treasurer or treasury, but only when authorized so to do as provided in this charter. He shall also sign all bonds, certificates of indebtedness, warrants and all other evidences of indebtedness at any time issued by the city. He shall also sign in behalf of the city any and all contracts authorized by the city council, pursuant to the provisions of this charter, and shall affix the corporate seal thereto.

5. He shall, on request, prepare and certify under the corporate seal of the city copies of all papers and records in his office, and he shall be entitled to make a reasonable charge therefore.

6. He shall have power to administer oaths and affirmations and to take acknowledgments.

7. He shall promptly notify all officers of their election or appointment and of the amount of their official bond.

8. ~~Unless otherwise provided in this Charter,~~ He shall present to the city council each month at one regular meeting thereof a report, setting forth in detail and classified as to funds, all moneys received and paid out in behalf of the city since his last monthly report, the balance to the credit of each fund, and the balance on deposit in each city depository. At the end of each fiscal year he shall present a similar report to the city council showing in detail all receipts and disbursements of the city for the fiscal year then ending. All of said reports shall be in such form as may be prescribed by the city council. He shall also make such other and further reports as may from time to time be required of him by the city council.

9. He shall have such other powers and duties as may be prescribed elsewhere in this Charter or as may hereafter be prescribed by the city council by ordinance, resolution or motion.

(c) City Treasurer - Powers and Duties. The powers and duties of the city treasurer, which may be changed or increased at the pleasure of the council, shall be as follows:

1. He shall receive and safely keep all moneys and funds belonging to or under control of the city or any commission or department thereof and any other commission or department or bureau hereafter at any time established.

2. He shall be the custodian of and shall safely keep all bonds, certificates of indebtedness, warrants and other securities owned or held by the city or any of its departments.

3. He shall keep an accurate and detailed record of all moneys and property received by him belonging to the city or any department or commission or board thereof. He shall keep a separate account for each fund and pay no money out of the treasury except upon a check or order signed by the mayor and city clerk. He shall pay all orders or checks out of the particular fund on which they are drawn and no other, and shall refuse to pay any order or check when there is insufficient money in the fund on which it is drawn to pay the same.

4. If required by ordinance, resolution or motion of the council, he shall sign all orders and checks on the city treasurer, bonds, certificates of indebtedness, warrants, and all other evidences of indebtedness at any time issued by the city which have been signed by the mayor and clerk, except as otherwise provided in this Charter.

5. He shall deposit daily all moneys received by him, belonging to the city or any department or commission thereof, in some bank or banks designated by the city council as a depository or depositories. All moneys shall be deposited in the name of the City of Bismarck.

6. He shall report in detail to the city clerk, at the city clerk's pleasure, the receipts and disbursements of all city funds.

7. At the end of each fiscal year he shall present a report to the city council and the city clerk, showing the receipts and disbursements as such city treasurer for the fiscal year then ending. All said reports shall be in such form as may be prescribed by the city council. He shall also make such other and further reports as may be required from time to time by the council.

6. He shall have such other duties as may be elsewhere provided in this Charter, or as may hereafter be prescribed for by the city council.

7. For his services, the city treasurer shall be paid such salary as may be prescribed by ordinance, resolution or motion.

(d) City Attorney. The city attorney shall be a person who has been admitted to practice in all the courts of this state. He shall be the legal advisor of the attorney for the city and all departments, commissions, boards and officers thereof in relation to their official powers and duties. It shall be his duty to attend all meetings of the city council; to give advice in writing, when so requested, to the council or any of the authorized boards or commissions; to prosecute or defend, as the case may be, all suits or cases to which the city may be a party, to prosecute for all offenses against the ordinances or regulations of the city; to draw all contracts, bonds, and other instruments in writing in which the city is concerned, to draw all ordinances and resolutions, and to perform such other duties of a legal nature as the city council may from time to time require. In case of sickness or inability of the city attorney to act, he may, at his own expense, appoint, by and with the consent of the council, another attorney to act in his stead for the time being. The city council, with the consent of the city attorney, shall have the power to contract with, employ or retain, legal counsel to take charge of and conduct any litigation in which the city is interested directly or indirectly or to which it may be a party or in which its welfare may be concerned or, with the consent of the city attorney, may appoint such counsel to assist the city attorney in the prosecution or maintenance of defense of any litigation in which the city is interested.

(e) Chief of Police. ~~The chief of police~~ <sup>and must be</sup> one is appointed or designated by the ~~city council~~ <sup>city council</sup>, shall be in immediate control and supervision of all of the other police officers and shall be responsible for the faithful performance of their duties as well as his own. *He shall be full time employed.*

Section 22. Purchases and Contracts. All purchases on behalf of the city, except those permitted to be made by the Water, Light, Power and Building Commission, shall be made, and all contracts let, by the city council. All contracts, bonds and instruments of every kind to which the city shall be a party shall be signed by the mayor and clerk on behalf of the city, and shall be executed in the name of the city.

Section 23. Contracts. How let. In all cases of work to be done by contract, and all of the purchase of personal property of any kind, where the amount involved is more than \$500.00, the city council shall advertise for bids by two weeks' published notice in the official newspaper or in a newspaper published in the county, except that one week's published notice may be given if unanimously agreed to by the council. Contracts of this magnitude shall be let by the council to the lowest responsible bidder. The council may, however, reject any and all bids. Nothing contained in this section shall prevent the council from contracting by a vote of four members of the council for the doing of work with patented processes, or from the purchasing of patented appliances by the same majority. Further regulations for the making of bids and the letting of contracts may be made by ordinance, resolution or motion, subject to the provisions of this Charter.

(b) Justices of the Peace. They shall possess all of the powers of those elected by the towns, and be governed in the exercise thereof by the same laws, in all respects, except that their official bonds, unless otherwise provided by law, shall run to the city and be approved by the council. They may also hear and determine accusations made against persons for the violation of any ordinance of the city, and upon conviction may impose the penalties prescribed. They shall have such other jurisdiction and authority as may be conferred or implied by law and receive for their services the fees allowed by law to justices of towns. All fines paid to justices of the peace shall be paid immediately by them to the city treasurer.

(g) Constables. Constables shall give bonds to the city, unless otherwise provided by law, to be approved by the council, similar to those required of town constables, and be governed by the same law. They shall obey all lawful orders of the council, and diligently enforce all laws and ordinances for the preservation of the peace. They may arrest, with or without warrant, and forthwith take before a city justice, any person engaged in the commission of a public offense, and may command, if necessary, the assistance of bystanders. They shall receive for their services the same fees authorized to town constables, and, for special services to the ~~city~~, such compensation as the council may fix.

(h) Peace Officers. All members of the council shall be peace officers, and may suppress in a summary manner any riotous or disorderly conduct in the city or any other public place of the city, and may command the assistance of persons, under such penalties as may be prescribed by law and the ordinances.

## Chapter 5.

### Taxation and Finance.

Section 24. Council to Control Finances. Except for such financial control as the Water, Light, Power and Building Commission of any board may have under this Charter or by law, the council shall have full authority over the financial affairs of the city, and shall provide for the collection of all revenue and other assets, for auditing and settling all accounts, and the safe keeping and disbursement of public moneys, and in the exercise of a sound discretion shall make provisions for the payment of all liabilities and expenses.

Section 25. Fiscal Year. The fiscal year of the city shall end each year on the 31st day of December.

Section 26. Power of Taxation. The city shall have, in addition to the powers by this Charter expressly or impliedly granted, all the powers to raise money by taxation, pursuant to the laws of the state which are applicable to cities of the class of which it may be a member from time to time, providing, however, there shall be no limitation on its power to tax or on the amount it can levy, except the limitations provided in Laws of Minnesota for 1941, Chapter 543 and the limitations contained in this charter. All powers by this section conferred shall be exercised conformably to this Charter so far as may be possible, and such authority and power shall not authorize the city to incur any debt beyond the limitations or in any other manner than authorized in this Charter.

Section 27. Levy and Collection of Taxes. On or before the tenth of October each year the council shall levy by resolution the taxes it deems necessary for the ensuing fiscal year, and the council and the city shall not be limited in the amount of any levy for general city and municipal purposes or for any other purposes or for any other funds to the limitations provided for in Mason's Minnesota Statutes for 1937, Section 1727, and laws amendatory thereof or supplementary thereto, but shall be limited only by the per capita provisions of Laws of Minnesota for 1941, Chapter 543, and laws amendatory thereof and supplementary thereto and by the provisions of this charter.

The city clerk shall transmit to the county auditor annually, not later than the tenth of October, a statement of all the taxes levied and such taxes shall be collected and the payment thereof be enforced with and in like manner as state and county taxes. No taxes shall be invalid by reason of any informality in the manner of levying the same, nor in case the amount levied shall exceed the amount required to be raised for the special purposes for which the same is levied, but in that case the surplus shall go into the fund in which such taxes belong.

Section 28. Tax Settlement with County Treasurer. The city treasurer shall see to it that all moneys in the county treasury belonging to the city are promptly turned over to the city according to law.

Section 29. Disbursements. How made. No money demand against the city shall be paid until audited and allowed by the council, nor otherwise than by an order drawn upon the treasurer thereof or by check drawn upon the city depository bank. Such demand shall be made out in items, and be verified by an attached affidavit that the claim is true and correct, and that no part of it has been paid. The clerk shall endorse thereon the word "Disallowed," if such be the fact, 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~~ing~~ of the order or check drawn for its payment, and the clerk shall take and preserve a receipt for each order or check issued. Every order drawn for the payment of money shall be signed by the mayor and clerk and countersigned by the treasurer if required by the council. No order or check shall be drawn or issued on any fund until there is sufficient money in such fund to pay the same, together with all orders or ~~checks~~ checks previously issued against such fund, except when there are ~~delinquent~~ <sup>unpaid</sup> taxes on iron ore property which may cause financial embarrassment to the city.

Whenever the expenses and obligations incurred chargeable to any particular fund of the city in any calendar year are sufficient to absorb 95% of the entire amount of the tax levy for such fund payable in that year, including such amount as may remain in the fund from the levy or otherwise of the prior year or years, neither the city council nor any officer, commission, board or employee shall have power and no power shall exist to create any additional indebtedness (save as the remaining 5% of such tax levy is collected) which shall be a charge against that particular fund or shall be in any manner a valid claim against the city; but such additional indebtedness, if attempted to be created, shall be a personal claim against the officer or member of the council, commission, or board voting for or attempting to create the same; and in no event shall the city council or any officer, commission, board or employee have the power and no power shall exist to create any indebtedness which shall be a charge against the village in excess of cash on hand at the beginning of the year, and the local income and the tax levy payable in that year for the use of any particular department, commission, board or official body, less the amount required to be paid each year therefrom on bonds authorized and interest accruing thereon. At any time after the annual tax levy has been certified to the county auditor and not earlier than October 10 in each year, the city council may, for the purpose of meeting the obligations of the ensuing year, by resolution or motion issue and sell, with or without advertisement, as many certificates of indebtedness as may be needed in anticipation of the collection of the taxes so levied for any fund named in the tax levy, for the purpose of raising money for such fund. No certificates shall be issued and outstanding for any separate fund exceeding 50% of the amount named in the tax levy for that fund as spread by the county auditor, and in no event exceeding the uncollected portion of the levy. No certificates shall be issued or become due and payable later than December 31 of the year succeeding the year in which such tax levy, certified to the county auditor as aforesaid, was made. Such certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than 6% per annum. Each certificate shall state upon its face for which fund proceeds of the certificate shall be used, the total amount of certificates issued and outstanding against such fund, and the whole amount embraced in the tax levy for that particular purpose. They shall be numbered consecutively and be in denominations of \$25.00 or multiples thereof and may have interest coupons attached, and shall be otherwise of such terms and form and be made payable at such place as will best aid in their negotiation. The certificates of indebtedness issued hereunder shall be negotiable instruments. The proceeds of the tax assessed and collected as aforesaid on account of such fund, and the full faith and credit of such city shall be irrevocably pledged for the redemption of the certificates so issued. Such certificate shall be paid from the moneys derived from the levy against which such certificates were issued, or if they be insufficient for that purpose, from other funds of the city. The money derived from the sale of such certificates shall be credited to such fund or funds for the calendar year immediately

succeeding the making of such levy and shall not be used or spent except during such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended unless the non-payment of taxes on iron ore financially embarrasses the city; provided that money derived from the sale of certificates of any one year may, if necessary, be issued to redeem unpaid certificates issued in a prior year. In the event the city is unable to sell such certificates of indebtedness in the manner prescribed, laws of Minnesota for 1933, Chapter 275, Section 4, and all amendments thereof, now or hereafter existing, shall apply to the City of Hibbing.

Section 30. Levies and Bonds Payable Under Laws of Minnesota for 1927, Chapter 275. The amount of the levies for the payment of bonds authorized and issued under laws of Minnesota for 1927, Chapter 275, may be paid from the levy for the general fund.

Section 31. Not to Incur Indebtedness. No department, board or commission of the city shall during any year contract any indebtedness or incur any pecuniary liability which shall be in excess of the sum that may be levied and collected for said department, board or commission or allotted to it for said year by the city council, plus local income accruing to such department, board or commission.

Section 32. Contract to be Null and Void in Certain Cases. Every contract attempted to be entered into, or indebtedness or pecuniary liability attempted to be incurred in violation of the provisions of this charter shall be null and void in regard to any obligations to be sought to be imposed upon the city, and no claim therefor shall be allowed by the council of the city nor by any board thereof; nor shall the city clerk or any other officer or employee issue or execute, nor shall the city treasurer pay any check, warrant or certificate of indebtedness issued on account thereof. Each member of the city council and each other city officer or employee participating in or authorizing any violation of this charter shall be individually liable to the city or to any other person for any damages caused thereby. Every member of the city council or any board or commission of the city present at a meeting of the board, commission or council when any action is taken with reference to paying money or incurring indebtedness or entering into any contract in violation of the provisions of this charter shall be deemed to have participated in and authorized the same unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting.

Section 33. Funds to be kept. There shall be maintained in the city treasury the funds hereinafter named for the support of which the city council may levy taxes annually for the general fund. From the general fund the city council shall pay annually to the other funds such sums of money, except as hereinafter may be provided, as may seem expedient to the city council. Total levies for the general fund and for all funds of the city and for all purposes, general and specific, including judgments and bonded or other indebtedness, except for the payment of bonded indebtedness outstanding at the time of the adoption of this charter and interest thereon, shall not exceed 40 mills upon the assessed valuation of the city against which such levy is spread; provided, in any year in which a levy of 40 mills would not produce the sum of \$10,000, the city may levy 40 mills provided, further, that the first five years of the charter, and at the levy of 40 mills shall not produce or equal \$10,000 in the levy of 1941 and 1942, and \$10,000 in the levy of 1943, and thereafter the amount to be levied for bonded indebtedness and interest thereon shall be the sum of \$10,000 or less as provided in this charter.

in all the above mentioned years, the city may levy the above described amounts in the above numbered years, in excess of any amount levied for bonded indebtedness and interest thereon.

In the event the levies made by the council, plus any levies for judgments, bonded indebtedness or other indebtedness, or interest thereon, required by law to be included by the County Auditor in such levies (other than the levies for bonded indebtedness existing at the time of the adoption of this charter, and interest thereon) shall exceed the limitations hereof, the County Auditor shall reduce such levies until the total thereof is within the limitations herein set forth. In making such reduction, the County Auditor shall spread in full levies, if any, for judgments or bonded indebtedness and interest thereon, or other mandatory levies, and then shall reduce the levy or levies for other purposes proportionately, or as directed by the council, to such extent as is necessary to bring the total within the limitations herein set forth.

(a) General Fund. For the payment of such expenses of the city as the council may deem proper. Into this fund shall be paid all money not provided herein or by statute to be paid into any other fund, and from this fund shall be allocated, paid and transferred to the other funds herein mentioned such sums of money as may seem expedient to the city council, except as hereinafter may be provided.

(b) Water and Light Fund. From the general fund into the water and light fund shall be paid annually a sum that not less than five (5) mills on the dollar on the last assessed valuation thereof would produce and not more than \$9,500 each year of 1942, 1943, and 1944; and \$9,500 in 1945; and \$9,100 in 1946 and each year thereafter, as long as there is a Water, Light, Power and Building Commission. This fund shall be administered by the Water, Light, Power and Building Commission.

(c) Library Fund. From the general fund into the library fund may be paid annually a sum not greater than \$300, which shall be administered by the council and from which books for the library at the local school may be purchased and from which the expenses of the members of the local library be read to Hango Library board meetings may be paid, together with such other local library expenses as the council may deem expedient to pay within said amount.

(d) Bond Fund. From the general fund into the bond fund may be paid annually a sum not to exceed \$2,700 for each year of 1942, 1943, and 1944; \$2,800 in 1945; and \$2,400 in 1946 and each year thereafter; provided, that nothing in this charter shall prevent the council from making payments for bond expenses from the general fund for municipal purposes. This fund shall be administered by the council.

(e) Cemetery Fund. From the general fund into the cemetery fund may be paid a sum not greater than \$1,000 each year, to be administered by the city council.

(f) Firemen's Relief Fund. From the general fund into the firemen's relief fund shall be paid annually a sum that not less than one mill on the dollar on the last assessed valuation thereof would produce, and if the Sivabik Firemen's Relief Association shall loan its funds to the city by purchasing the city's certificates of indebtedness or other evidences of indebtedness on the same basis as to interest rates and in the same amounts as during the year preceding the taking effect of this charter, the maximum amount paid from the general fund annually to the firemen's relief fund may be \$1,500 each year for 1942, 1943 and 1944; \$1,600 in 1945; and \$1,600 in 1946 and each year thereafter. This fund shall be administered by the Sivabik Firemen's Relief Association in accordance with the present law and any amendments thereof or supplementary thereto now or hereafter existing.



(c) Fire Fund. From the general fund into the fire fund may be paid annually the following amounts: \$1,100 in 1943, 1944 and 1945; \$1,950 in 1946; and \$1,500 in 1947 and each year thereafter. This fund shall be administered by the city council for forest fire purposes and for such other purposes as to the city council may seem expedient.

(d) Bond Fund. From the general fund into the bond fund the treasurer shall pay, during the following years, the following sums for the purchase, or payment when due, of any bonds hereinafter issued and sold to the State of Minnesota or to any of its departments or agencies, placing the following sums in the bond fund if the purchase of the bonds can not be made until they fall due:

1941-----	\$0,805(1945 bonds)	\$8,340(1953 bonds)	\$19,145
1942-----	9,807(1946 bonds)	8040(1952 bonds)	18,197
1943-----	9,310(1947 bonds)	9,020(1951 bonds)	10,230
1944-----	8,812(1948 bonds)	8,817(1950 bonds)	17,230
1945-----	8,815(1949 bonds)		8,815

If the bond tax levies (whether by the general fund or otherwise) will be collected in advance of the maturity of the bonds, it shall not be necessary to add any percentage or allowance for possible delinquencies in tax collections, but in making the levy for the year 1945 there shall be added to the levy for such bonds such sum as is necessary to make up any accumulated delinquencies in collections upon such levies for the payment of said bonds, plus five per cent allowance for delinquencies in such 1945 bond levy.

Also, into this fund shall be paid all receipts from taxes or other sources for the payment of principal and interest of all bond obligations issued by the city. Out of this fund shall be paid the principal and interest of such bond obligations when due or purchaseable. Money in this fund may be invested under the direction and authorization of the city council in such securities as are authorized by statute for the investment of such funds or for savings banks of this state.

If any money remains in this bond fund after the payment of all bonded indebtedness, any or all of it shall be transferred by the treasurer and council to the Reserve Fund.

(e) Reserve Fund. From the general fund into the <sup>reserve</sup> fund the treasurer shall pay all money received from the levy of 1941 and 1942 and any other year which, when the other funds have been paid, is in excess of \$37,000 per year for the general fund purposes. From this fund to the general fund may be paid a sufficient amount annually so that the general fund, after payments made therefrom to the other funds, will have a minimum of \$37,000 per year from tax levies for general corporation fund purposes. When this charter takes effect, all money remaining in the village bond fund and all which would have been placed therein or levied from the village library fund levy of 1940, whether received when this charter takes effect or later from the village library fund levy of 1940, shall be paid to and put in this reserve fund.

(f) Such other funds as may be required by statute or ordinance or resolution.

(g) Replacement Fund. All money from liquor licenses, cigarette licenses and other licenses, and all money from fines shall be placed in this fund. No money shall be taken from this fund except upon the majority vote of those voting on the question at a regular or special election. Money shall be used only for replacement of sewer and water mains, the large electric transformers, water tank and such other things of a similar kind that need to be replaced.

Money in all funds of the Village of Hibbit shall be transferred by the treasurer to similar funds of the City of Hibbit upon the taking effect of this charter, except as otherwise provided herein.

Section 34. Auditing Accounts. The city council may at any time provide for an audit of the city's finances by a certified public accountant or by the department of the state authorized to make examinations of the affairs of municipalities. On or before the first day of ~~January~~ <sup>July</sup> in each year the city clerk, ~~if required to do so by the council~~, shall prepare and publish in the official newspaper a complete itemized and detailed financial statement of the city's financial operations for the preceding calendar year.

Section 35. Bonded Debt and Debt Limit. In addition to all the powers in respect to borrowing and the issuance of bonds and certificates of indebtedness specifically or impliedly granted by this charter, and any amendments thereto, the city shall have all the powers in reference to these subject matters authorized for cities of the same class by Chapter 10 of Mason's Minnesota Statutes for 1927, and acts amendatory thereof and supplementary thereto. The city shall also have the power to issue and sell its bonds to the State of Minnesota, and to comply with all provisions of law relative to loans to municipalities from the permanent state funds.

The council may by a majority vote of all of its members submit to the electors propositions for the issuance of bonds for any other public purpose not prohibited by law. Except for funding or refunding purposes or as otherwise submitted by law or as otherwise provided in this charter, no bonds or other term obligations of the city may be issued except pursuant to a favorable vote of a majority of those voters who vote on the proposition of their issuance. By the proceedings for the issuance of any bonds, by the terms of the bonds and by agreements with the purchasers of bonds, they may be made special in character and limited in their payment to earnings or to part earnings and part tax funds. To the extent that they are thus payable out of earnings or other than tax funds, such bonds shall not be paid out of taxes. The total bonded debt of the city shall never exceed ten per cent of the last assessed valuation of the taxable property therein, including moneys and credits except in bonding to the state; but in computing the total bonded debt, certificates of indebtedness or bonds issued before or after the adoption of this charter shall not be included or counted if (1) held in a sinking fund maintained by the city; or (2) issued for the acquisition, equipment, purchase, construction, maintenance, extension, enlargement or improvement of street railways, telegraph or telephone lines, water, lighting, heat and power plants, or either, or any other public convenience from which a revenue is or may be derived, owned and operated by the city, or the acquisition of property needed in connection therewith, or for the construction of public drainage ditches, or the acquisition of lands, for, or for the improvement of streets, parks or other public improvements, to the extent that they are payable from the proceeds of assessments levied upon property especially benefited by such ditches or improvements; or (3) issued for the creation or maintenance of a permanent improvement revolving fund; or (4) for the purpose of anticipating the collection of general taxes for the year in which issued.

Section 36. Form and Repayment of Bonds. The sum of the maturing installments of principal of any issue of bonds coming due in any one year shall not be more than two and one-half times the sum of the installments of the principal of any such issue coming due in any other year. No bonds shall be issued to run for longer than the reasonable life expectancy of the property or improvement for which the bonds are authorized, as ascertained and set forth in the ordinance or resolution authorizing such bonds, and in no case shall bonds be issued to run for more than thirty years. The purposes for which bonds are authorized shall be set forth in the ordinance or resolution authorizing them, and the proceeds from such bonds shall not be diverted to any other purpose.

Section 37. Debt Certificates. If in any year the receipts from taxes or other sources should from some unforeseen cause become insufficient for the ordinary expenses of the city, or if any calamity or other public emergency should subject the city to the necessity of making extraordinary expenditures, then the council may authorize the sale by the city treasurer of emergency debt certificates to run not to exceed two years and to bear interest at not more than six per cent per annum. A tax sufficient to redeem all such certificates at maturity shall be levied the following year. The authorization of an issue of such emergency debt certificates shall take the form of an ordinance or resolution approved by five of the members of the council.

Section 38. Bonds Outside the Debt Limit. In addition to the powers of the council to issue bonds and certificates of indebtedness otherwise authorized by this charter, the council may issue bonds for legal purposes outside of the bonded debt limit for constructing, extending, enlarging or improving water and lighting and heat and power plants, or either, or other revenue producing public utilities of whatever nature, owned and operated by the city, or of acquiring property needed in connection therewith, the total of which shall never exceed five per cent of the last assessed valuation of the taxable property of the city, including moneys and credits.

#### Chapter C.

#### Public Improvements and Special Assessments.

Section 39. The City Plan. The city council may prepare and adopt a complete plan for the future physical development of the city. Such plan may be either from time to time. It may include provisions for zoning, for the platting and development of new areas, for the planning and location of public works of art, public buildings, parks, playgrounds, bridges, transportation lines, and other public facilities, and for the laying out, grading and improving of streets and public places, as well as for all other matters which may seem essential to such a plan.

Section 40. Enforcement of City Plan. The council shall have all necessary power to enforce complete adherence by all persons to the plan adopted as provided above, and to adopt and enforce a comprehensive zoning ordinance. The council shall have power to pass ordinances to regulate the use of private property, the height of buildings, and the promotion of the area of any lot which may be built upon and to establish building lines. Such power shall be exercised to promote public health, safety, morals, welfare and convenience.

Section 41. Public Improvements and Special Assessments. The city shall have the power to make any and every type of public improvement not forbidden by the laws of this state and to initiate and carry out in accordance with all laws pertaining thereto, as will be, listed as: Laws of 1901, Chapter 107, relating to sewer and sidewalk construction; Laws of 1905, Chapter 236, relating to street improvement; Laws of 1915, Chapter 33, relating to sewers; Laws of 1921, Chapter 412, relating to water mains; and such other laws as may pertain to public improvements for villages and a city of this class, and all amendments now or hereafter existing to the above cited laws.

Section 42. Local Improvements. After this charter takes effect, all local improvements shall continue for the time being to be made under the laws previously applicable thereto as far as possible. The council may provide by ordinance a comprehensive ordinance, prescribing the procedure which shall be followed there-

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after in making all local improvements and levy/assessments therefor, and such ordinance when adopted shall supersede all other provisions of the law on the same subject and may be amended only by an affirmative vote of five members of the council. Such ordinance shall provide for such notice and hearing in the ordering of improvements and the making of assessments therefor as shall be necessary to meet constitutional requirements.

Section 43. Public Works. How Performed. Public works, including all local improvements, may be constructed, extended, repaired and maintained either directly by day labor or by contract. The city shall require contractors to give bonds for the protection of the city and all persons furnishing labor and materials, pursuant to the statutes of the state.

#### Chapter 7.

#### Eminent Domain

Section 44. Power to Acquire Property. The city of Bismarck is hereby empowered to acquire, by purchase, gift, devise, or condemnation, any property, corporeal or incorporeal, either within or without its corporate boundaries, which may be needed by said city for any public use or purpose. In addition to the power to acquire property for other public purposes, the city may also acquire, as herein provided, any gas, water, heat, power, light, telephone, or other plant, or other public utility; but no proceedings to acquire any such public utility shall be consummated until authorized by vote of the people, and provision for paying for the property proposed to be acquired has been made. Easements for slopes, fills, sewers, building lines, poles, wires, pipes, and conduits for water, gas, heat, and power may be acquired by gift, devise, purchase, or condemnation in the manner provided by law.

Section 45. Proceedings in Acquiring Property. The necessity for the taking of any property by the city shall be determined by the council and shall be declared by a resolution which shall describe such property as nearly as may be and state the use to which it is to be devoted. The acquisition of such property may be accomplished by proceedings at law, as in taking land for public use by right of eminent domain according to the laws of this state, except as otherwise provided in this charter.

Section 46. Payment of Award. Whenever an award of damages shall be confirmed in any proceeding for the taking of property under this charter, or whenever the court shall render final judgment in any appeal from any such award, and the time for abandoning such proceedings by the city shall have expired, the city shall be bound to, and shall, within sixty days of such final determination, pay the amount of the award with interest thereon at the rate of six per cent per annum from the date of the confirmation of the award or judgment of the court, as the case may be; and if not so paid, judgment therefor may be had against the city.

Section 47. City May Abandon Proceedings. The city may, by resolution of the council at any time or the condemnation proceedings, or at any time within thirty days after any commissioners appointed by the court hereunder shall have filed their report with the clerk of court, or in case of an appeal to the district or supreme court at any time within thirty days after final determination thereof, abandon such proceedings as to all or any parcel of the property sought to be acquired and shall pay all costs thereof.

Section 48. City May Acquire Entire Plant. In case the city shall condemn a public utility which is operated at the time of the commencement of the condemnation proceedings as one property or one system, it shall not be necessary in such condemnation proceedings, or any of the proceedings of the council, to describe or treat separately the different kinds of property composing such system, but all of the property, lands, articles, franchises, and rights which enter into and go to make up such system may, unless otherwise ordered by the court, be treated together as constituting one property, and an award for the whole property in one lump sum may be made by the commissioners on condemnation or other body assessing the damages. But this shall not prevent the city, in cases where the plant and property is separable into distinct parts, from taking only such part or parts thereof as may be necessary in the public interest.

#### Chapter 8.

#### Franchises

Section 49. Definition of Franchises. The word "franchise" as used in this charter shall be construed to include all privileges granted to any person, firm, association or corporation in, over, upon or under any of the highways or public places of the city, whether such privileges have been or shall hereafter be granted either by the city or by the State of Minnesota.

Section 50. Franchise Ordinances. The council may grant franchises by ordinance adopted by an affirmative vote of five members of the council. Franchise rights shall always be subject to the superior right of the public to the use of streets and public places. All corporations, co-partnerships, persons or other entity desiring to make an especially burdensome use of the streets or public places, inconsistent with the public's right in such places, or desiring the privilege of placing in, over, upon or under any street or public place any permanent or semi-permanent fixtures for the purpose of constructing or operating street or other railways, or for telephoning or telegraphing or transmitting electricity, or transporting by pneumatic tubes, or for furnishing to the city or its inhabitants or any portion thereof transportation facilities, water, light, heat, power, or any other public utility, or for any other purpose, shall be required to obtain a franchise before proceeding to make such use of the streets or public places or before proceeding to place such fixtures in such places.

Section 51. Publication of Franchise. Every ordinance granting or extending any franchise shall contain all the terms and conditions of the franchise. A franchise shall be without any validity whatever until it has been unconditionally accepted in all its terms by the grantee, signed by the proper officers thereof, and such acceptance filed with the city clerk, and until it has been published in the official newspaper of the city at least once a week for four successive weeks after its passage. The grantee shall bear the cost of publication of franchise ordinances and shall deposit sufficient cash to guarantee the publication before the ordinance is passed.

Section 52. Terms Limited. The council in granting any franchise shall fix the term thereof. No franchise shall be granted for a longer term than twenty-five years.

Section 53. Power of Regulation Reserved. The city shall have the right and power to regulate and control the exercise by any corporation, co-partnership, person or other entity, of any franchise, however acquired, and whether such franchise has been

heretofore granted by the Village of Winabik or by the State of Minnesota, or shall hereafter be granted by the city or by the State of Minnesota.

Section 54. Rates and Charges. Every grantee of a franchise to operate a public utility shall give courteous, efficient and adequate service at reasonable rates. A reasonable rate shall be construed to be one which will, with efficient management, normally yield above all operating expenses and depreciation a fair return on all money honestly and efficiently invested in the plant and equipment of the grantee in the public service within the city. This shall not be construed as a guaranty of a return and in no case shall there be any return upon franchise value. Within these limits the determination of a maximum price to be charged by any franchise holder for service rendered to the city or to any person, persons, firm or corporation within the city shall be made, if possible, by direct negotiations between the franchise holder and the council at public hearings. In case of failure to reach an agreement by this method within a reasonable time, a board of arbitration consisting of three members shall be appointed in the following manner. Either the council or the franchise holder shall appoint some person to represent it on said board of arbitration, and within twenty days after such appointment the council or the franchise holder, as the case may be, shall also appoint some person to represent it on said board of arbitration. Within twenty days after the appointment of representatives by the council and the franchise holder, the said representatives shall by mutual agreement select a third person, preferably an expert in valuation and rate making, to act as umpire, and said two representatives and said umpire shall constitute a board of arbitration. If the representatives of the council and the franchise holder are unable to agree on an umpire, such umpire shall be appointed by the senior judge of the District Court of St. Louis County, Minnesota. The board of arbitration so selected shall as soon as possible make the necessary investigations and agree by a majority vote upon a schedule of rates. The schedule of rates set by the board of arbitration shall be the legal rates, subject to review by a court of competent jurisdiction. Schedules of rates thus fixed shall be as flexible as may be, and shall in no case fix a definite rate for a period of more than five years. If the franchise holder fails to appoint a representative to the board of arbitration within the time required after notification by the council of the appointment of the council's representative, or if the board of arbitration fails to agree upon a schedule of rates within sixty days after the appointment of an umpire, the council shall have the power to prescribe a schedule of reasonable rates by ordinance, to be effective until a decision has been reached by the board of arbitration. The rate determined upon by the board of arbitration may be retroactive to the time of the termination of the preceding rate schedule, if any. The city and the franchise holder may by mutual agreement revise existing schedules of rates at any time, proceeding in each case as provided for the original fixing of rates. The city may pay a reasonable amount for the services and expenses of its representative and a reasonable share of the remuneration and expenses of the umpire.

Section 55. Conditions of Franchises. Every franchise shall contain the conditions set forth in this section, and every franchise ~~shall be deemed to include these conditions whether actually stated in the franchise grant or not~~ <sup>shall be deemed to include these conditions whether actually stated in the franchise grant or not</sup> ~~and shall be incapable of modification by extension or otherwise.~~ Every franchise shall contain the following provisions:

(1) That the grantee shall be subject to and will perform on its part all the terms of sections 49 to 53, inclusive, as well as all other pertinent provisions of this charter.

(2) That the grantee shall in no case claim or pretend to exercise any power to fix rates, fares and charges; but that such rates, fares and charges shall at all times be just, fair and reasonable for the services rendered, and shall in all cases be fixed and from time to time changed in the manner provided in Section 54 of this charter. The granting of any franchise shall not be deemed to confer any right to include in the charges for services any return on the value of the franchise.

(3) That the council shall have the right to require reasonable extensions of service from time to time and to make such rules and regulations as may be required to secure adequate and proper service, and to provide sufficient accommodations for the public.

(4) That the grantee shall not issue any capital stock on account of the franchise or the value thereof, and that the grantee shall have no right to receive, upon condemnation proceedings brought by the city to acquire the public utility exercising such franchise, any return on account of the franchise or of its value.

(5) That no sale, assignment or lease of said franchise shall be effective until approved by an affirmative vote of five members of the council and until the vendee, assignee or lessee shall have filed in the office of the city clerk an instrument duly executed, reciting the fact of such sale, assignment or lease, accepting the terms of the franchise, and agreeing to perform all the conditions thereof.

(6) That every grant in said franchise contained of permission for the erection of poles, masts or other fixtures in the streets and for the attachment of wires thereto, or for the laying of tracks in, or of pipes or conduits under the streets or public places, or for the placing in the streets or other public places of any permanent or semi-permanent fixtures whatsoever, shall be subject to the conditions that the council shall have the power to require such alterations therein, or relocation or rerouting thereof, as the council may at any time deem necessary for the safety, health or convenience of the public, and particularly that it shall have the power to require the removal of poles, masts and other fixtures bearing wires and the placing underground of all wires for whatsoever purpose used.

(7) That the grantee, or its assignee, if any, shall post a bond in such amount and such form as may be determined by the city council, conditioned to repair promptly all damages to public streets, alleys and ways and public property occasioned by the acts or omissions of any such grantee or assignee.

(8) That the city shall have free access to all books, records and papers of the grantee which in any way deal with, affect or record its operations within the city.

Section 56. Further Provisions of Franchises. The enumeration and specification of particular matters which must be included in every franchise or renewal or extension thereof, shall not be construed as impairing the right of the city to insert in any such franchise or renewal or extension thereof such other and further conditions and restrictions as the council may deem proper to protect the city's interests, nor shall anything contained in this charter limit any right or power possessed by the city over existing franchises.

## Chapter 9.

### Public Ownership and Operation of Utilities.

Section 57. Construction, Acquisition and Operation of Utilities. The city shall have power to acquire public utilities as provided in Chapter 7 of this charter, and to build and construct such utilities as may be authorized by a vote of the people at a regular or special election, *except as is otherwise provided in this charter.*

Section 58. Rates and Finances. The Water, Light, Power and Building Commission shall have the power to fix all rates and charges for water, light, heat, and all other utilities provided by plants owned by the city, but such rates and charges shall be just and reasonable. In like manner the Water, Light, Power and Building Commission may prescribe the time and manner in which payments for all such services shall be made, and the manner in which water and electric current shall be counted or measured, whether by meter or flat rate, and make such other regulations as may be necessary, and may prescribe penalties for violations of such regulations.

Section 59. Purchase in Bulk. The council may, in lieu of providing for the local production of gas, electricity, water and other utilities, purchase the same in bulk and resell them to local consumers at such rates as the Water, Light, Power and Building Commission may fix.

Section 60. Lease of Plant. The council and the Water, Light, Power and Building Commission may, if the public interests will be served thereby, contract with any person, partnership or corporation for the operation of any utility owned by the city, upon such rentals and conditions as it may deem necessary, but such contract shall be embodied in and let only by an ordinance approved by an affirmative vote of five members of the council, ~~and subject to popular referendum.~~ In no case shall such contract be for a longer term than ten years. The contractor shall be subject as far as possible to the rules as to rates and service, and as to council control, laid down for the holders of franchises in Chapter 8 of this charter.

Section 61. Public Utility, Now Sold. No public utility owned by the city, whether acquired prior to the adoption of this charter or thereafter, shall be sold or otherwise disposed of by the city, unless the full terms of the proposition of said sale or other disposition thereof, together with the price to be paid therefor, shall have been embodied in an ordinance passed by an affirmative vote of five members of the council, and submitted to the electors at a general or special election and approved by a majority vote of the electors voting thereon.

## Chapter 10.

### Miscellaneous and Transitory Provisions.

Section 62. Official Publications. The council shall regulate by ordinance, resolution or motion, subject to the requirements of this charter, the manner in which official publicity shall be given to the holding of elections, ordinances, resolutions, requests for bids upon contemplated purchases and contracts, and all other matters whatsoever which require publication either by the provisions of this charter or by the laws of Minnesota. It shall annually designate a legal newspaper of general circulation in the city as the official newspaper in which shall be published the clerk's annual report not later than January 31 of each year and such measures and matters as are by the laws of this state.



and this charter required to be so published, and such other matters as the council may deem it advisable and in the public interest to have published in this manner.

Section 53. Official Bonds. The city clerk and city treasurer and such other officers of the city as may be provided for by ordinance, resolution or action, shall each before entering upon the duties of their respective offices, give a corporate surety bond to the city in such form and amount as may be fixed by the council as an additional security for the faithful performance of their respective official duties and the safe-keeping of the public funds. Such bonds shall be approved by the city council. They shall be filed with the clerk of the council. The provisions of the laws of the state relating to official bonds, not inconsistent with this charter, shall be applied with.

Section 54. City Property Not Lost by Adverse Possession. No right, title, estate or easement of the city in any property shall be lost by adverse possession or occupancy, and no statute or limitations shall operate against the city in favor of any person occupying any public property or highway, whether such highway shall have been improved or not.

Section 55. Sale of Real Property. No real property of the city shall be disposed of except by ordinance or resolution. The proceeds of any such sale shall be used as far as possible to retire any outstanding indebtedness incurred by the city in the purchase, construction, or improvement of this or other property used for the same public purpose; but if there be no such outstanding indebtedness, then the council may by a resolution adopted by an affirmative vote of five members of the council designate some other public use for such proceeds.

Section 56. Vacation of Streets. No street or alley within the city shall be discontinued except by ordinance or resolution adopted by the affirmative vote of five members of the council. A record of such vacation shall be made in the office of the Register of Deeds of the county.

Section 57. Notice of Defect in Street or Sidewalk and Recovery of Judgment for Damages. The city shall be absolutely exempt from liability to any person for damages for injuries suffered or sustained by reason of defective streets or sidewalks within said city unless actual notice in writing of such defects in said streets or sidewalks shall have been filed with the city clerk within at least ten days before the occurrence of such injury or damage. In the absence of such notice the city shall not be liable for any injury or damage on account of such defects, and in all cases such notice shall describe with particularity the place and nature of the defects of which complaint is made.

If any judgment shall be recovered in any action against the city for any injury or damage caused by any obstruction, excavation, opening or defect in any street or alley or public ground caused or occasioned by the act or omission of any person or corporation, the city shall have the right to recover the amount of any such judgment from the person or corporation so responsible for such obstruction, excavation, opening or defect; and such person or corporation is hereby declared to be liable to the city in the amount of damages.

Section 58. City to succeed Rights and Obligations of Former Municipalities. The city of Birch shall succeed to and continue to have, hold and enjoy all property, property rights, rights of action, and rights of every kind, privileges and immunities now belonging to or pertaining to the Village of Birch, and shall be subject to all liabilities which now exist against said village.

Section 59. Tenure of Present Officers. All village officers elected at any village election held prior to the time this charter has become effective shall continue to hold their offices until the expiration of their respective terms. The incumbents in office as president, clerk and three trustees of the village council of the