

*this section unless the certificate states the disability, disease, or injury. Each such certificate shall be filed with the secretary of the association.*

*Subd. 2. If the paid member receives any compensation granted him under the workmen's compensation law of the state of Minnesota and the compensation is less than he would receive under the disability pension, the Red Wing fire department relief association shall pay to him the difference up to \$150 per month.*

*Subd. 3. The board shall have the right to require the disabled pensioner to appear before them at any time and to have him take a physical examination by a doctor of medicine licensed to practice medicine under the laws of this state of their choice, to determine whether or not such claim is justified.*

*Subd. 4. If the pensioner is employed elsewhere during his disability, the board and the examining physician may determine whether he could be reinstated as a fireman. If they find that he could be reinstated to active service in the fire department, he has the option of remaining at his present occupation or of returning to the fire department. In either case all disability payments cease.*

*Sec. 2. This act will become effective only after it is approved by the governing body of the city of Red Wing and upon compliance with Minnesota Statutes 1961, Section 645.021.*

Approved May 22, 1965.

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#### CHAPTER 605—S. F. No. 1516

[Not Coded]

*An act relating to the city of Columbia Heights and its firemen's relief association and providing for a plan of retirement for the paid firemen of such city.*

Be it enacted by the Legislature of the State of Minnesota:

**Section 1. Columbia Heights, city of; firemen's relief.** The fire department of the city of Columbia Heights shall continue to maintain a firemen's relief association incorporated under the laws of the state and such association shall have perpetual corporate existence.

**Sec. 2.** The Columbia Heights fire department relief associ-

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ation shall continue to be organized, operated, and maintained in accordance with its own articles of incorporation and bylaws, by firemen, as hereinafter defined, who are members of the fire department. The association shall continue to regulate its own management and its own affairs, and all additional corporate powers which may be necessary or useful; subject to the regulations and restrictions of sections 1 to 31, and other laws of this state pertaining to corporations, not inconsistent herewith.

Sec. 3. A fireman under sections 1 to 31 is one who is regularly entered on the payroll of the fire department of Columbia Heights, serving on active duty with a designated fire company therein, or having charge of one or more of the companies and engaged in the hazards of fire fighting; and includes all members of the electrical and mechanical divisions of the fire department who are subject to like hazards; and shall include all volunteer firemen of the city not on the payroll who regularly comply with such rules as may be prescribed by the city council of Columbia Heights for service by volunteer firemen with the fire department of the city of Columbia Heights, and who by reason of their status as such volunteer firemen are engaged in the hazards of fire fighting. Substitutes and persons employed irregularly from time to time shall not be included.

All persons who are members of the Columbia Heights fire department relief association on July 1, 1965, whether their status is embraced within the definition of a fireman herein contained or otherwise, shall have the right to continue as members of the association and be entitled to all benefits pertaining thereto, and any member included under the definition of fireman herein provided shall have the right to retain his membership on promotion or appointment to other positions to which such firemen herein may be subject.

Sections 1 to 31 shall not affect any pensions or other benefits which have been allowed or which are being paid by such relief association under or in accordance with any prior law in effect on the date this act becomes effective. Payment of such pensions and benefits shall be continued by the association, subject only to the provisions of section 19.

Sec. 4. Every fireman, as defined in section 3, shall be eligible to apply for membership in the relief association within the time and in the manner hereinafter set forth. Any such fireman desiring to become a member shall, not later than 90 days from the time when he is regularly entered on the payrolls of the fire department, make written application for membership in the relief as-

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sociation on forms supplied by the association, accompanied by one or more physician's certificates as required by the bylaws of the association. After the application has been filed, the board of examiners of the association shall make a thorough investigation thereof and file their report with the secretary of the association. Such application must be acted upon by the association within six months from the date the applicant was entered on the payroll of the fire department. No fireman who is more than 35 years of age when his application is filed can become a member of the relief association, except that such age limitation of 35 years shall not apply on application for reinstatement in the association.

Sec. 5. The Columbia Heights fire department relief association may have the right to exclude all applicants for membership who are not physically and mentally sound, so as to prevent unwarranted risks for the association; and additional requirements for the entrance fees and annual dues for membership in the association may from time to time be prescribed in the bylaws of the association.

Sec. 6. The officers of the relief association shall be a president, one or more vice presidents, a secretary, and a treasurer. The offices of assistant secretary and assistant treasurer may be created by the bylaws of such association. The affairs of such association shall be managed by a board of trustees, the majority of whom shall be paid firemen, elected in the manner prescribed by the articles of incorporation of the association.

The secretary and treasurer of such relief association shall each furnish a corporate bond to the association for the faithful performance of their duties, in amounts as the association from time to time may determine. Such relief association is hereby authorized to pay the premiums on such bonds from its general fund.

Sec. 7. The secretary and treasurer of such association, prior to the first day of February in each year, shall jointly prepare and sign, with the approval of the association's board of trustees, a detailed and itemized report of all receipts and expenditures in the association's special fund for the preceding calendar year, showing the source of such receipts, and to whom and for what purpose the money has been paid and expended, and the balance of the fund. They shall file duplicate original copies thereof with the clerk of the city of Columbia Heights, and with the state auditor. No money shall be paid to the relief association by either the state of Minnesota or the city of Columbia Heights until the report is filed.

Sec. 8. The clerk of Columbia Heights shall, on or before October 31 in each year, make and file with the insurance commis-

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sioner of this state his certificate certifying the existence of the Columbia Heights fire department relief association.

Sec. 9. The insurance commissioner shall include the name of the Columbia Heights fire department relief association in the forms of all statements and reports required of insurance companies to be filed with the insurance commissioner. He shall also include the name of such association in all reports to the state auditor relating to the amount of tax for the benefit of the relief association paid by the insurance companies on insurance premiums.

Sec. 10. The state auditor, at the end of each fiscal year, shall issue and deliver to the treasurer of the Columbia Heights fire department relief association his warrant upon the state treasurer for an amount equal to the total amount of the tax, for the benefit of this association, paid by fire insurance companies upon the premiums by the companies received in the city of Columbia Heights upon properties insured within the corporate limits of Columbia Heights, together with the other appropriations or funds as may hereafter be appropriated or created, and to which such association may hereafter be entitled.

Sec. 11. The state treasurer shall, upon presentation to him of the warrant of the state auditor specified in section 10, pay out of the general revenue fund of the state the amount thereof to the treasurer of the Columbia Heights fire department relief association presenting the warrant.

Sec. 12. Subdivision 1. The city council shall each year levy a tax for the benefit of the special relief fund of such firemen's relief association of 1-½ mills on all taxable property within such city until the balance in said special fund of such firemen's relief association has reached the sum of \$150,000, and thereafter the levy may be reduced to a minimum of one tenth of a mill by said city to a sum sufficient to maintain the balance in said special fund of not less than \$150,000. In addition, and only if such tax is levied, the city treasurer, shall, each month, deduct four percent of the salary of a first grade fireman and transfer the total thereof to the treasurer of the special fund of the relief association, who shall credit this total to the special fund and to the credit of the individual fireman.

Subd. 2. In addition, the city council shall, at the time tax levies are made for the support of the city, and in addition thereto, levy an emergency tax levy of one half mill or fraction thereof in addition to the 1-½ mills hereinbefore provided, whenever the balance in said special fund is less than \$75,000. In addition, and only if such tax is levied, the city treasurer shall each month deduct five percent of the salary paid to a first grade fireman, and transfer the

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total thereof to the treasurer of the special fund of the relief association, who shall credit this total to the special fund and to the credit of the individual fireman.

Subd. 3. If a fireman in such city is separated from the service due to resignation or some reason not involving malfeasance, nonfeasance, moral turpitude, injury, death, or other disability, the treasurer of the special fund shall return to the fireman all of the amounts so deducted from his base pay without interest.

Subd. 4. The tax so levied shall be transmitted with other tax levies to the auditor of Anoka county and shall be collected and payments thereof enforced when and in like manner as state and county taxes are paid.

Sec. 13. As soon as practical, after the first day of June and the first day of November in each year, the treasurer of Anoka county shall pay to the treasurer of the relief association the amount of the tax then collected, and payable to the association together with all interest and penalties so collected, and all interest paid thereon between the time of collection and the time of payment to the relief association. The city treasurer of Columbia Heights, in the event the tax or any part thereof is paid to him, shall likewise pay the same to the treasurer of the relief association as soon as the same has been collected, together with all interest and penalties collected thereon.

Sec. 14. The relief association shall have full and permanent charge of and the responsibility for the proper management and control of, all funds that may come into its possession, and particularly funds derived from the following sources:

- (1) Funds derived from the state of Minnesota and interest from the investment thereof;
- (2) Funds derived from the tax levies by the city of Columbia Heights and interest from the investment thereof; and
- (3) Funds derived from private sources such as gifts, charges, rents, entertainments, dues paid by members, and from other sources.

Sec. 15. The money received from the various sources shall be kept in two separate and distinct funds, one to be designated as the fire department relief association special fund, and the other as its general fund. All money received from the state of Minnesota and from the city of Columbia Heights, together with the interest thereon, shall be deposited in the special fund, and expended only for purposes hereinafter authorized. All money received from other sources, and the interest thereon, shall be deposited in the general

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fund, and may be expended for any purpose deemed proper by such association.

Sec. 16. The amounts so paid to the Columbia Heights fire department relief association by the state and the city under the provisions of sections 1 to 31 and by it set aside and deposited as a special fund, shall be appropriated and disbursed by such association for the following purposes:

(1) For the relief of the sick, injured, and disabled members of the relief association, their widows and orphans;

(2) For payment of disability and service pensions to members of the relief association;

(3) The special fund shall be segregated into two accounts, one of which shall be for the benefit of members who are volunteer firemen, and the other for the benefit of members who are paid firemen. All moneys received by the association which are derived from payroll deductions from paid firemen's salaries under section 12 shall be paid into the account of the fund for the benefit of paid firemen only. Funds received from other sources shall be allocated between the account for the benefit of paid firemen and the account for the benefit of volunteer firemen in such proportions as shall be designated by the city council of Columbia Heights. In the event the city council shall abolish the volunteer branch of its fire department any surplus remaining in the account of the fund for the benefit of volunteer firemen after discharging all obligations to those who are volunteer members at the time of such abolition shall be paid into the account of the fund for the benefit of paid firemen. Upon the effective date of this act, the funds of the Columbia Heights fire department relief association may be allocated by action of the city council between the respective accounts of the special fund of the relief association for the benefit of the paid firemen and the volunteer firemen; and

(4) For the payment of necessary expenses of administering such fund, including the secretary's and treasurer's salaries.

Sec. 17. Subdivision 1. When the balance in the special fund of the relief association is less than \$50,000 as determined by the association's board of trustees, which fact shall be duly certified to by the public examiner, such board of trustees may thereupon file its duly verified petition for relief, accompanied by such certificate, with the commissioner of insurance. The commissioner of insurance shall thereupon order and direct a surcharge to be collected of two percent of the fire, lightning, and sprinkler leakage gross premiums, less return premiums, on all direct business received by any foreign

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or domestic fire insurance company on property in the city of Columbia Heights, or by its agents for it, in cash or otherwise, until the balance in the special fund of such relief association amounts to \$50,000 and for a period of 15 days thereafter. As soon as the balance in said special fund amounts to \$50,000 the board of trustees of the relief association shall certify that fact to the commissioner of insurance and the commissioner of insurance shall forthwith issue his order ordering and directing that the collection of such surcharge shall be discontinued after the expiration of said 15 day period and shall forthwith mail a copy of the order last mentioned to each insurance company affected thereby. Said surcharge shall be due and payable from such companies to the state treasurer in semi-annual installments on June 30 and December 31 of each calendar year to be kept by the state treasurer in a separate fund and if not paid within 30 days after such dates a penalty of three percent shall accrue thereon and thereafter such sum and penalty shall draw interest at the rate of one percent per month until paid.

Subd. 2. The state auditor shall, semiannually, issue and deliver to the treasurer of the fire department relief association of the city of Columbia Heights his warrant upon the state treasurer for an amount equal to the total amount of said surcharge on said premiums within the city theretofore so collected and transmitted to the state treasurer by such insurance companies. Said warrants shall be paid out of said separate fund hereinbefore provided for, and the payment in each case shall be made to the treasurer of the Columbia Heights fire department relief association upon presentation of the warrant.

There is hereby appropriated to the Columbia Heights fire department relief association, from such fund or account in the state treasury to which the money was credited, such sums as may, from time to time, be necessary to pay these warrants.

Subd. 3. The treasurer of the relief association shall place the money received by him in payment of such warrant in the special fund of the relief association.

Subd. 4. An emergency exists and this section shall be construed as a relief measure for the Columbia Heights fire department relief association.

Sec. 18. Subdivision 1. The provisions of this section shall apply only to any volunteer fireman who was a member of the Columbia Heights fire department relief association prior to January 1, 1965. In determining the period of service of any individual member of the association for the purpose of computation of service requirements in connection with payment of any pensions or other

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benefits specified by the bylaws of the relief association, or any provisions of sections 3 to 31, service of a volunteer or paid fireman of the fire department and membership in the relief association shall be taken into account on the same basis as though this act was in existence during all of the time such service was rendered.

Subd. 2. All applications for benefits hereunder shall be made in writing on forms supplied by the recording secretary.

Subd. 3. All applications for benefits hereunder shall be referred to the board of trustees for disposition. No benefits or pensions shall be paid until the application therefor has been approved by a majority vote of the board of trustees. Decisions of the board shall be final as to the payment of such benefits or pensions, and if the board deems it the best interest of the association, it may suspend or reduce the amounts of benefits or pensions hereunder. No person receiving a pension shall be paid any other benefits by this association.

Subd. 4. Applications for disability benefits shall be made by or in behalf of the applicant within three days after the disability commences, and no disability benefits shall be paid for a period covering more than three days before the application is made.

Subd. 5. Any active volunteer member shall be entitled to disability benefits as approved herein. Any such member who by reason of sickness or injury resulting from the discharge of his duty as a fireman for the Columbia Heights fire department shall receive disability compensation at the rate of \$30 per week for the first four weeks of disability and \$25 per week thereafter for the next successive 12 weeks. Said compensation shall be limited to the aforesaid from any one accident; provided, however, that the board of trustees may recommend that the said benefits be extended for an additional amount of time where it deems that the disability from accidental injury is exceptional and unusual.

Subd. 6. Upon the death of any volunteer member of the association, either active or retired in good standing, the association shall pay to his estate or legal heirs, the sum of \$500 as reimbursement of funeral expenses.

Subd. 7. All applications for pensions shall be submitted to the board of trustees at a regular or special meeting of the board. Applications shall be verified by an oath of the applicant and shall state the following:

- (a) The age of the applicant;
- (b) The period of service in and the date of retirement

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from the fire department of the city of Columbia Heights, Minnesota;

(c) The length of time the applicant has been a member of this association; and

(d) Such other and further information as the board of trustees may require.

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Subd. 8. Any volunteer member of this association who has or may hereafter reach the age of 50 years, and who has done or hereafter may do active duty for 20 years or more as a member of the Columbia Heights fire department, and who has been or may hereafter be a member for ten years of this association, shall be entitled to a monthly pension of \$40 per month for the first 20 years of service before retirement, which said monthly pension shall be increased by adding to such monthly payment the sum of \$2 per month for each year of service over 20 years of service, before retirement, up to a maximum pension of \$60 per month. Provided, however, that the sum of \$10,000 shall be held in reserve and shall not be subject to be used for such pension.

Subd. 9. (a) Any member of the association receiving an honorable discharge from the fire department of said city may be continued on the roll call as an honorary exempt member of the association, so long as he may continue to be a resident of the United States. To entitle any member to become an honorary member as aforesaid, the following requisites must be complied with, to wit: The applicant must have served at least 15 years as an active member of the fire department. Application therefor must be made to the board of trustees within 60 days from an honorable discharge from his company.

(b) Honorary membership dues shall have been paid or must be paid upon demand, in the association, through the secretary on or before the 31st day of December of each year. All honorary members of the association are otherwise subject in the same manner as active members to the constitution and bylaws of the association.

Subd. 10. Any active volunteer member who has become or becomes a member on or after January 1, 1965, shall, notwithstanding the provisions of subdivision 1 of this section, and who meets the eligibility requirements of subdivision 8 of this section, shall be subject to the provisions of subdivisions 2, 3, 4, and 7, and shall be eligible to receive a service pension, which service pension shall be paid in a lump sum, in an amount not exceeding \$100 per year of service, to a retiring member, who qualifies for a service pension by

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reason of having become physically disabled, as certified by a physician designated by the city council of the city of Columbia Heights, so that he cannot continue with his duties as a volunteer fireman of the fire department, or to a widow or minor children of a deceased member who dies before reaching the age of 50 years, and before rendering 20 years of active duty as a volunteer fireman. No other pension or benefit shall be payable to members of the association who are volunteer firemen, provided that, if the services of all volunteer firemen are discontinued and the volunteer division of the fire department is abolished by the city of Columbia Heights, the volunteer firemen who are members of the association at the time of such discontinuance and abolishment shall be paid a service pension, in a lump sum, in an amount not to exceed \$100 per year of service rendered prior to such discontinuance and abolishment.

Sec. 19. The Columbia Heights fire department relief association shall at all times have and retain the right to reduce the amount of pensions and benefits to be thereafter paid out of its funds, whenever its total funds, as determined by its board of trustees, are less than \$25,000 and within the limits described in sections 1 to 31, said association shall have and retain the right to increase or otherwise adjust said pensions and benefits after they have been so reduced.

Sec. 20. A member of the relief association who, by reason of sickness or accident, becomes disabled from performing his assignment of duties on the fire department, shall be entitled to the relief as the bylaws of the association may provide. No allowances for the disabilities shall be made unless notice of the disability and application for benefits on account thereof shall be made by or on behalf of the disabled member to the secretary of the association within 30 days after the beginning of such disability.

Sec. 21. A member of the Columbia Heights fire department relief association who is entitled to disability benefits, shall receive the same from the association for such periods of time, at such times, and in such amounts not to exceed 25 percent per month of the prevailing wage of a first grade fireman as the bylaws of the association provide.

Sec. 22. A member of the association, as defined in section 3, who has completed a period or periods of service on the fire department equal to 20 years or more, shall, after he has attained the age of 50 years, or more, and has retired from the payroll of the fire department, be entitled to a pension of not less than \$50, nor more than one-half the salary of the prevailing wage of a first grade fireman, per month for his natural life in conformity to the bylaws of the association. All leaves of absence of more than 90 days, except such

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as are granted to a member because of his disability due to sickness or accident, shall be excluded in computing the period of service; and all periods of time during which a member received a disability pension shall be excluded in the computation. No deductions shall be made for a leave of absence granted to a member to enable him to accept an appointive position in the fire department. No member shall be entitled to draw both a disability and a service pension. The bylaws of the relief association may provide for these increases, or any portion thereof, provided that in no event shall the total pension exceed the sum of one-half the salary of a first grade fireman per month.

Sec. 23. A member of the association who has performed service on the fire department for 20 years or more, but has not reached the age of 50 years, shall have the right to retire from the department without forfeiting his right to a service pension. He shall, upon application, be placed on the deferred pension roll of the association, and, after he has reached the age of 50 years, the association shall, upon application therefor, pay his pension from the date the application is approved by the association. Any person making the application thereby waives all other rights, claims, or demands against the association for any cause that may have arisen from, or that may be attributable to, his service on the fire department.

Sec. 24. Any applicant for a service pension who subsequent to his entry into the service of such fire department leaves the active service of such fire department to serve in the military forces of the United States in any war or national emergency, or having during such war or emergency left the active service of such fire department to enter the employment of the government of the United States and in such service rendered fire prevention services during such war or emergency and has returned after his honorable discharge from such service, and, within six months after such discharge, either applied for reinstatement in or resumed active duty in said fire department, the period of his absence in such service of the United States shall be counted in computing the period of service hereinbefore provided for, but during such period of military or fire prevention service he shall not be considered as an active member of the association.

Sec. 25. When a service pensioner, disability pensioner, or deferred pensioner, or an active member of such relief association dies, leaving:

(1) A widow who became his legally married wife while or prior to the time he was on the payroll of the fire department and remained such continuously after the marriage until his death with-

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out having an action for divorce or legal separation, pending, and who, in case the deceased member was a service or deferred pensioner, was legally married to such member at least three years before his retirement from the fire department; and who, in any case, was residing with him at the time of his death; no temporary absence for purposes of business, health, or pleasure shall constitute a change of residence for the purposes of this section.

(2) *A child or children who were living while the deceased was on the payroll of the fire department, or who were born within nine months after the decedent was withdrawn from the payroll of the fire department, such widow and child or children shall be entitled to a pension or pensions as follows:*

(a) To such a widow a pension of not less than \$25, and not to exceed 40 percent of the salary of a first grade fireman per month, as the bylaws of the association provide for her natural life; provided, that if she remarry, such pension shall cease and terminate as of the date of her remarriage.

(b) To such child or children, if their mother is living, a pension of not to exceed 5 percent of the salary of a first grade fireman per month, for each child up to the time each child reaches the age of not less than 16, and not to exceed the age of 18 years, in conformity with the bylaws of the association; provided, the total pension hereunder for the widow and children of the deceased member shall not exceed the sum of 50 percent of the salary of a first grade fireman per month.

(c) A child or children of a deceased member receiving a pension or pensions hereunder shall, after the death of their mother, be entitled to receive a pension or pensions in the amount or amounts as the board of trustees of the association shall deem necessary to properly support the child or children until they reach the age of not less than 16, and not more than 18 years, as the bylaws of the association may provide; but the total amount of such pension or pensions hereunder for any such child or children shall not exceed 15 percent of the salary of a first grade fireman per month.

Sec. 26. The relief association shall establish a board of examiners who shall, as and when requested by the association's board of trustees, make a thorough investigation and report on all applications for membership in the association; investigate and make report on all applications for disability pension and make recommendations as to the amount to be paid to the applicant; investigate and make report on all disability pensioners, and make recommendations as to the amount of pension to be paid to them from year to year; and investigate and report on all applications for service pensions, and

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claims for relief. This board shall consist of a competent physician selected by the association, and at least three members of the relief association on active duty with the fire department.

Sec. 27. The public examiner of this state shall each year examine the books and accounts of the secretary and the treasurer of the Columbia Heights fire department relief association. If he finds that any money has been expended for purposes not authorized by sections 1 to 31, he shall report the same to the governor, who shall thereupon direct the state auditor not to issue any further warrants to the association until the public examiner shall report that money unlawfully expended has been replaced. The governor may also take such further action as the emergency may demand.

Sec. 28. All payments made or to be made by the relief association under any of the provisions of sections 1 to 31 shall be totally exempt from garnishment, execution, or other legal process, and no persons entitled to such payment shall have the right to assign the same, nor shall the association have authority to recognize any assignment, or to pay any sum on account thereof; and any attempt to transfer any such right or claim or any part thereof shall be void.

Sec. 29. Sections 1 to 31 shall not be construed as abridging, repealing, or amending the laws of this state relating to the provisions of the law commonly known as the workmen's compensation act.

Sec. 30. All pensions paid to firemen or their widows pursuant to the provisions of sections 1 to 31 shall be uniform except as may be specifically provided for therein.

Sec. 31. No fireman as defined in this act shall be a member of the public employees' retirement association of the state of Minnesota; provided, however, that a volunteer fireman who is a full time employee of some other department or agency of the city of Columbia Heights or of some other political subdivision of the state, may be a member of the public employees' retirement association.

Sec. 32. This act is in effect only after its approval by a majority of the city council of the city of Columbia Heights and upon compliance with the provisions of Minnesota Statutes, Section 645.021.

Approved May 22, 1965.

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