
CITIES.

CHAPTER 40.

[S. B. 145.]

NUMBER OF ALDERMEN. TERMS OF OFFICE.

AN ACT to Amend Sections 2133, 2136, 2154, 2251 and 2252 of the Revised Codes of North Dakota, Relating to the Number of Aldermen, and to the Election and Terms of Office of Aldermen and Other Officers in Incorporated Cities. Amended as Follows:

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 2133 of the Political Code be amended to read as follows:

§ 2133. NUMBER OF ALDERMEN.] The number of aldermen shall be as follows: In cities of six hundred inhabitants or less, four aldermen, who shall be elected at large; exceeding six hundred but not exceeding two thousand inhabitants, six aldermen; exceeding two thousand but not exceeding four thousand, eight aldermen; exceeding four thousand but not exceeding ten thousand, twelve aldermen; exceeding ten thousand but not exceeding fifteen thousand, fourteen; and two additional aldermen for each ten thousand inhabitants over fifteen thousand; *Provided*, however, that in cities of over one hundred thousand inhabitants there shall be elected thirty-six aldermen and no more, the population to be determined by the last census; *Provided*, however, if an official census has been taken within one year, it shall govern.

§ 2. That Section 2136 of the Political Code be amended to read as follows:

§ 2136. QUALIFICATIONS OF ALDERMEN.] No person shall be eligible to the office of alderman who is not a qualified elector of and resident within the ward for which he is elected; *Provided*, that in cities where aldermen are elected at large, he shall be a qualified elector of and resident within such city, nor shall he be eligible if he is in arrears in the payment of any tax or other liability due to the city, nor shall he be directly or indirectly interested in any contract whatever to which the city is a party; nor shall he be eligible if he shall have been convicted of malfeasance, bribery or other corrupt practices or crimes; nor shall he be eligible to any office, the salary of which is payable out of the city treasury, if at the time of his appointment he shall be a

member of the city council; nor shall any member of the city council at the same time hold any other office under the city government; nor shall he be either directly or indirectly, individually, or as a member of a firm engaged in any business transaction, other than official, with such city through its mayor or any of its authorized boards, agents or attorneys, whereby any money is to be paid directly or indirectly out of the treasury to such member or firm.

§ 3. That Section 2154 of the Political Code be amended to read as follows:

§ 2154. ELECTION OF OFFICERS.] There shall be elected in each city organized under this, the following officers: A mayor, two aldermen from each ward, a city treasurer, a police magistrate and a city justice of the peace; *Provided*, that in the cities of six hundred inhabitants or less there shall be elected four aldermen at large; *Provided*, further, that at the first election held hereafter in the cities heretofore organized under this chapter in which the number of aldermen is reduced to four, there shall be elected four aldermen who shall be divided into classes as provided in Section 2254 of this chapter.

§ 4. That Section 2251 of the Political Code be amended to read as follows:

§ 2251. TIME AND PLACE OF ELECTION.] There shall be an annual election for elective officers herein provided, held on the first Monday in April of each year, at such place or places in each ward as the council shall designate, except in cities where aldermen are elected at large the council shall designate one polling place only. The polls shall be kept open continually from eight o'clock in the forenoon until five o'clock in the afternoon and no longer, and ten days' previous notice shall be given by the council of the time and place of holding such election by publication in at least two of the city papers published in said city, if two shall be published therein.

§ 5. That Section 2252 of the Political Code be amended to read as follows:

§ 2252. THE ELECTION DISTRICTS AND PRECINCTS.] Each city in which aldermen are elected at large shall constitute an election district; and in all other cities each ward shall constitute an election district; but whenever the number of legal voters in any ward shall exceed three hundred, the council may by ordinance divide such ward into two or more precincts for voting purposes, and whenever the number of legal voters in any two or more contiguous wards shall not exceed one hundred, as determined by the last annual election, the council may by ordinance consolidate such two or more wards into one precinct for voting purposes; *Provided*, that such ordinance shall be passed and take effect before the time of giving notice of an election; and said wards and precincts shall constitute election districts for all State and county elections.

§ 6. EMERGENCY.] Inasmuch as no provision is made for the election of alderman at large in the spring election; *Therefore*, an emergency exists, and this act shall be in force from and after its passage and approval.

Approved, March 13, 1897.

CHAPTER 41.

[Sub. for S. B. 40.]

PAVING OF CITIES.

AN ACT Authorizing Cities to Pave and Otherwise Improve Streets, Alleys and Highways and to Provide for the Cost Thereof, and to Create Improvement Districts Within the Limits of Such Cities.

Bevit Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. CITIES AUTHORIZED.] All cities of this State organized or which may hereafter be organized under the general laws for the incorporation of cities shall have power to grade, curb, pave, gravel or macadamize and gutter, or cause the same to be done in any manner they may deem proper, any street, highway, avenue or alley within the limits of such city, and may grade, pave or otherwise as aforesaid improve the whole or any part of any such street, highway, avenue or alley, and provide for the cost thereof as hereinafter provided.

§ 2. FIVE-SIXTHS OF COUNCIL TO ASSENT.] Unless the owners of a majority of the superficial feet owned by them, of the property subject to special assessment as herein-after provided for such improvements, shall petition the council of such city to make the same, such improvements shall not be made until five-sixths of all the members-elect of such council shall by vote assent to the making of the same.

§ 3. WORK DONE BY CONTRACT.] It shall be the duty of the council of such city to require all of the work necessary to the making of any improvements authorized by section 1 hereof to be done under contract, to be entered into with the lowest and best bidder or bidders, and bonds with good and sufficient surety for the faithful performance of such work shall be required to be given by the contractors; *Provided*, that all bids for such work, or any part thereof, may be rejected by such council and new bids ordered.

§ 4. MAY CREATE DISTRICTS.] Any such city shall, for the purpose of effectuating the objects enumerated in section 1 of this act, have power to create improvement districts within the limits of such city, which shall be consecutively numbered.

§ 5. SHALL BE IN COMPACT FORM.] Such improvement districts shall be in a compact form as nearly as practicable and nothing in this act contained shall be construed as authorizing and

empowering the city council to create one street by length as a district, except when it may be necessary to connect streets already paved. It being the intention of this act that all streets, highways or avenues within the boundaries of the district intersecting or crossing such other shall be included within the limits of such improvement district.

§ 6. COSTS ASSESSED.] The cost of grading, curbing, paving, graveling, macadamizing and guttering any street, avenue, highway or alley within such improvement district shall be assessed as follows: Four-fifths (4-5) of such cost upon the lots and land in such improvement district in proportion to the superficial feet contained in the lots or lands within the district, and one-fifth of such cost shall be paid by the city; and such payment by the city shall be in satisfaction of all claims against such city on account of paving or otherwise improving alley crossings and street intersections.

§ 7. METHOD OF PROCEDURE.] Whenever any work or improvement mentioned in the preceding sections shall have been determined upon and the contract let therefor, the city engineer shall forthwith calculate the amount to be specially assessed for such improvement for each lot or parcel of ground within such improvement district, and in estimating such special assessments he shall take four-fifths of the entire cost of such improvement and divide the same by the number of superficial feet of the lots or parcels of ground contained within the limits of such improvement district and the quotient shall be the sum to be assessed per square foot upon such property; *Provided*, however, that in assessing lands or parcels of ground not subdivided into city lots, only so much of such lands or parcels of ground as lie 140 feet distant from the adjacent line of the street so improved shall be specially assessed under the provisions of this act. And said estimate shall be filed with the city auditor and shall be presented to the city council for its approval at the first meeting held thereafter. The city auditor shall cause said estimate of the city engineer, together with a notice of the time and place when the council will meet to approve of the same, to be published in the official newspaper of the city for at least ten days prior to such meeting of the city council. At such meeting of the city council all persons aggrieved by such assessment may appear before the city council and present their reasons why such assessment should not be affirmed, and the city council shall then hear and determine such appeals or objections, if any, and may alter or affirm the action of the city engineer in making such assessments as the city council may deem just in the premises, and shall thereupon cause such list so altered to conform to its action, if any such alteration be made, to be certified as correct by the city auditor, and filed in his office.

§ 8. ASSESSMENT ROLL.] After the estimate provided for in in Section 7 of this act shall have been finally approved, the

auditor shall forthwith make, or cause to be made, an assessment roll describing the property so assessed, with the name of the owner if known, and the amount assessed to each lot, piece or parcel of ground within the limits of such improvement district as approved by the city council, and attach thereto a copy of the resolution of the city council approving the same, and certify that the same is correct, and file the same in his office. He shall publish such assessment roll three consecutive weeks, at least once a week in the official newspaper of the city; and such assessments with interest accruing thereon, shall be a paramount lien upon the property within the limits of the improvement district in which such improvement is made, and upon which such assessment is levied from the time such assessment list is approved by the city council, and shall remain a lien until fully paid, and shall have precedence over all other liens except ordinary taxes, and as to such shall be concurrent, and shall not be divested by any judicial sale; and any mistake in the description of the property or in the name of the owner shall not vitiate the lien.

§ 9. IN CASE OF ERRORS.] In case of omissions, errors or mistakes in making such assessments in respect of the total cost of improvements, or in case of deficiencies or otherwise, it shall be competent for the council to make a supplemental assessment to supply such deficiencies, omissions, errors or mistakes; such supplemental assessment shall be a lien on the lots and lands as herein provided for the original assessment, shall be payable in the same manner and in the same installments, shall draw interest at the same rate and shall be capable of enforcement in the same manner as herein provided with respect to the original assessment.

§ 10. ASSESSMENTS PAYABLE IN TEN YEARS.] The special assessment hereinbefore provided for shall be payable in equal annual amounts extending over a period of ten years, and interest at the rate of not to exceed 7 per cent per annum on the total unpaid assessments shall be payable annually.

§ 11. CITY AUDITOR SHALL CERTIFY.] The city auditor shall annually, at the time he certifies to the county auditor the amount of city taxes to be levied for the current year, also certify to such auditor a list of the lots and tracts of lands specially assessed for such improvements under the provisions of this act, with the proportions of such assessment for such year, and the county auditor shall extend the same upon the tax roll for the current year, and it shall be collected and paid over in the same manner as other city taxes, and when so paid over, shall be credited by the city treasurer and auditor to such improvement district fund.

§ 12. ANNUAL INTEREST,] The city council shall provide for

the payment of one-fifth of the total cost of such improvements, and the annual interest thereon at the rate of seven per cent per annum, by a tax levy on all the taxable real and personal property within the city, payable in as many annual installments as is provided for the special assessments. And in case of errors or mistakes in making such tax levy, or in case of deficiencies or otherwise therein, it shall be the duty of the city council to make additional levies from time to time to supply such deficiencies.

§ 13. DESIGNATION OF FUND.] All such special assessments and such general tax levy shall constitute a fund for the payment of the cost of such improvement in such district, to be designated as "Improvement District No. — Fund," and in anticipation of the payment of such taxes and assessments, the city may issue orders on such fund payable at such times and in such amounts as, in the judgment of the city council, the taxes and assessments so levied will provide for; which orders shall bear interest at the rate of not to exceed seven (7) per cent per annum, payable annually, and may have coupons attached representing each year's interest. Such orders shall state upon their face for what purpose they are issued and what fund they are drawn against, and shall be signed by the mayor and countersigned by the city auditor, under the seal of the city, and be in denominations of not more than \$1,000. Such warrants may be used in making payment on contracts for making such improvements, or may be sold for cash at not less than the par value thereof, and the proceeds used for paying for such improvements. It shall be the duty of the city treasurer to pay such orders and interest coupons as they mature out of such district improvement fund and to cancel them when paid, and if any interest shall become due on such orders when there are no funds to pay the same, the city council is hereby authorized to make a temporary loan for the payment thereof.

§ 14. INTEREST COUPONS.] Any matured order or interest coupons may be used in the payment of any special assessment on any particular property situated within the district for which such order or coupons were issued; the orders or coupons so used shall be cancelled and retired by the city treasurer.

§ 15. RIGHTS OF OWNERS OF PROPERTY.] The owner of any property against which an assessment shall have been made for the cost of any improvement shall have the right to pay the same in full with interest thereon at seven per cent per annum from the time such assessment was made, or after having paid one or more of such assessments and interest, he may at any time pay in full the balance of his assessment remaining unpaid, with interest thereon at the rate of seven per cent per annum from the time when the preceding payment became due, and such payment in full shall satisfy and discharge the lien upon his property, and any owner of property against which a special assessment is laid, who shall divide the same so that the superficial feet on any such improve-

ment are divided into separate lots or parcels, may discharge the lien in like manner upon any one or more of such lots or parcels by payment of the amount unpaid thereon calculated by the ratio of the superficial feet of such lot or lots, or parcel or parcels. to the superficial feet of the whole lot or lots, parcel or parcels.

§ 16. ADVERTISEMENTS.] In all proceedings and advertisements for the levy and collection of such assessments, letters and figures may be used to denote lots, parts of lots, lands and blocks, sections, townships, ranges and parts thereof, the year and the amounts.

§ 17. ERRORS OR OMISSIONS.] No error or omission which may be made in the order or in the proceedings of the city council, or any officer of said city in referring, reporting upon, ordering or otherwise acting concerning any local improvement provided for in this act, or in making any assessment therefor, or in levying or collecting such assessment, shall vitiate or in any way affect any such assessment unless it shall appear that by reason of such error or omission substantial injury has been done to the party or parties claiming to be aggrieved.

§ 18. ACT DEFINED.] Nothing in this act contained shall affect any assessment made by any city prior to this act becoming operative in such city, and all such special assessments or unpaid portions thereof, if any, shall be collected under and in accordance with the provisions of law in force at the time of the levying of such assessment.

§ 19. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

§ 20. EMERGENCY.] An emergency exists in this, that some of the cities of the State subject to the provisions of this act desire to make improvements thereunder this year, and it is necessary in order to make advantageous contracts for the material used in such improvements, for such cities to enter into contract therefor long prior to July 1st next; *Therefore*, this act shall take effect and be in force immediately after its passage and approval.

Approved March 3, 1897.