

## CITIES.

### CHAPTER 40.

[S. B. 159.]

#### RELATING TO ISSUING BONDS.

AN ACT to Amend Sections 2148 and 2321 of the Revised Codes of North Dakota, Relating to the Incorporation and Government of Cities, and Especially Relating to the Issuing of Bonds by Cities, as Said Sections Have Already Been Amended by the Provisions of Chapter 102 of the Laws of 1897, and Also to Amend Section 2309 of Said Revised Codes, Relating to the Manner and Form of Issuing Bonds.

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

§ 1. AMENDMENT.] That sections 2148 and 2321 of the Revised Codes of North Dakota, as amended by the provisions of Chapter 102 of the Laws of 1897, and also section 2309 of said Revised Codes be, and the same are hereby amended so as to read as follows, to-wit:

§ 2148. The city council shall have power:

1. To control the finances and property of the corporation.
2. To appropriate money for corporate purposes only, and provide for the payment of debts and expenses of the corporation.
3. To levy and collect taxes for general and special purposes on real and personal property.
4. To fix the amount, terms and manner of issuing and revoking licenses.
5. To borrow money on the credit of the corporation for corporate purposes and to issue bonds therefor, in such amounts and form and on such conditions as it shall prescribe, but shall not become indebted in any manner or for any purpose to an amount, including existing indebtedness, to exceed five per cent. of the taxable property therein as determined by the last preceding city assessment; provided, that an incorporated city may by a two-thirds vote increase such indebtedness and the amount of its bonds to an amount equal to three per cent on such assessed valuation beyond said five per cent limit; and such city shall provide for the collection of a direct annual tax sufficient to pay the interest of such debt when it falls due, and also to pay and discharge the principal thereof within twenty years after contracting the same; provided, further, that no bonds shall be issued under the provisions of Chapter 28 of the Political Code, either for special or general purposes,

except as hereinafter otherwise provided, unless at an election after twenty days notice in a newspaper published in the city, stating the purpose for which said bonds are to be issued and the amount thereof, the legal voters of said city shall by a majority vote determine in favor of issuing said bonds; provided, further, that the foregoing shall not prevent the raising of funds to pay for the establishment, construction and maintenance of a system of sewerage or the construction or purchase of waterworks for furnishing a supply of water to the inhabitants of such city, or municipal corporation and the issuance of bonds therefor, as provided by section 2321 of the Revised Codes of North Dakota, and provided, further, that the amount of bonds which may be issued under section 2321 shall not be diminished because of the fact that money has been used from the proceeds of bonds issued under the provisions of this section, for aiding in the construction of sewers or of a water plant.

6. To issue bonds in place of, or to supply means to meet maturing bonds, or for the consolidation or funding of the same, or for the consolidation or funding of any floating indebtedness created by such city prior to the second day of November, 1889, and such bonds may be issued upon resolution of the city council, at a general meeting upon a three-fourths vote of all the aldermen elect.

7. To lay out, establish, open, alter, widen, grade, pave or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks and public grounds and vacate the same.

8. To plant trees on the same.

9. To regulate the use of the same.

10. To prevent and remove obstructions and encroachments upon the same.

11. To provide for the lighting of the same.

12. To provide for the cleaning of the same.

13. To regulate the openings therein for the laying of gas or water mains and pipes, and the building and repairing of sewers, tunnels and drains, and erecting gas or electric lights; provided, however, that any company heretofore organized under the general laws of this state or any association of persons organized or which may be hereafter organized for the purpose of manufacturing illuminating gas or electricity to supply cities or the inhabitants thereof with the same, shall have the right by consent of the city council, subject to existing rights, to erect gas or electric light works and lay down pipes or string wires on poles in the streets, or alleys of any city in this state, subject to such regulations as such city may by ordinance prescribe.

14. To regulate the use of sidewalks and all structures thereunder; and to require the owner or occupant of any premises to keep the sidewalks in front of or along the same, free from snow or other obstructions.

15. To regulate and prevent the throwing or depositing of ashes,

offal, dirt, garbage or any offensive matter in, and to prevent injury to any street, avenue, alley or public ground.

16. To provide for and regulate crosswalks, curbs and gutters.

17. To regulate and prevent the use of streets, sidewalks and public grounds for signs, signposts, awnings, telegraph or telephone poles, horse troughs, racks, posting handbills and advertisements.

18. To regulate and prohibit the exhibition or carrying of banners, placards, advertisements or handbills in the streets or public grounds, or upon the sidewalks.

19. To regulate and prevent the flying of flags, banners or signs across the streets or from houses.

20. To regulate traffic and sales upon the streets, sidewalks and public places.

21. To regulate the speed of horses and other animals, vehicles, cars and locomotives within the limits of the corporation.

22. To regulate the numbering of houses and lots.

23. To name and change the name of any street, avenue, alley or other public place.

24. To permit, regulate or prohibit the locating, constructing or laying of a track of any horse or other street railway in any street, alley or public place; but such permission shall not be for a longer time than twenty years.

25. To provide for and change the location, grade and crossing of any railroad.

26. To require railroad companies to fence their respective railroads, or any portion of the same, and construct cattle guards, crossings of streets and public roads and keep the same in repair within the limits of the corporation.

27. To require railroad companies to keep flagmen at railroad crossings of streets, and provide protection against injury to persons and property; to compel railroads to raise or lower their tracks to conform to any grade which may at any time be established by such city, and where such tracks run lengthwise of such street, alley or highway, to keep their tracks on a level with the street surface and so that such tracks may be crossed at any place on such street, alley or highway; to compel and require railroad companies to make and keep open and to keep in repair, ditches, drains, sewers and culverts along and under their tracks, so that filthy and stagnant pools of water cannot stand on their grounds or right-of-way and so that the natural or artificial drainage of adjacent property shall not be impeded.

28. To construct and keep in repair bridges, viaducts and tunnels, and to regulate the use thereof.

29. To construct and keep in repair culverts, drains, sewers, catchbasins, manholes and cesspools and to regulate the use thereof.

30. To license, tax, regulate, suppress and prohibit hawkers, peddlers, pawnbrokers, keepers of ordinaries, theatricals and other exhibitions, shows and amusements, ticket scalpers and employment agencies, and to revoke such license at pleasure.

31. To license, tax and regulate hackmen, draymen, omnibus drivers, carters, cabmen, porters, expressmen, watermen and all others pursuing like occupations, and to prescribe their compensation.

32. To license, regulate, tax and restrain runners for stages, cars, public houses or other things or persons.

33. To license, regulate, tax or prohibit and suppress billiard, bagatelle, pigeonhole, or any other tables or implements kept or used for a similar purpose in any place of public resort, pin alleys and ball alleys.

34. To suppress bawdy or disorderly houses, houses of ill-fame or assignation within the limits of the city, and within one mile of the outer boundaries of the city; and also to suppress gaming and gambling houses, lotteries and all fraudulent devices and practices for the purpose of gambling, or obtaining money or property; and to prohibit the sale or exhibition of obscene or immoral publications, prints, pictures or illustrations.

35. To establish markets and market houses and to provide for the regulation and use thereof.

36. To provide for the place and manner of sale of meats, poultry, fish, butter, cheese, lard, vegetables and all other provisions, and regulate the selling of the same.

37. To regulate the sale of bread in the city and prescribe the weight and quality of the bread in the loaf.

38. To provide for and regulate the inspection of meats, poultry, fish, butter, cheese, lard, vegetables, flour, meat and other provisions.

39. To regulate the inspection, weighing and measuring of lumber, firewood, coal, hay and any article of merchandise.

40. To provide for the inspection and sealing weights and measures.

41. To enforce the keeping and use of proper weights and measures by vendors.

42. To regulate the construction, repairs and use of vaults, cisterns, areas, hydrants, pumps, sewers and gutters.

43. To regulate places of amusement.

44. To prevent intoxication, fighting, quarreling, dog fights, cock fights and all disorderly conduct.

45. To regulate partition fences and party walls.

46. To prescribe the thickness, strength and manner of constructing stone, brick and other buildings and the construction of fire escapes therein.

47. To prescribe the limits within which wooden buildings shall not be erected, or placed, or repaired without permission, and to direct that all and any buildings within said limits, which shall be known as the fire limits, when the same shall have been damaged by fire, decay or otherwise, to the extent of fifty per cent of the value, shall be torn down or removed, and to prescribe the manner of ascertaining such damage and to provide for the re-

removal of any structure or building erected contrary to such prescription and to declare each day's continuance of such structure or building a separate offense and prescribe penalties therefor.

48. To prevent the dangerous construction and condition of chimneys, fire places, hearths, stoves, stovepipes, ovens, boilers and apparatus used in and about any building or manufactory, and to cause the same to be removed or placed in a safe condition when considered dangerous; to regulate and prevent the carrying on of manufactories dangerous in causing and promoting fires; to prevent the deposit of ashes in unsafe places; and to cause all such buildings and enclosures as may be in a dangerous state to be put in a safe condition.

49. To erect engine houses and provide fire engines, hose carts, hooks and ladders, and other implements for the prevention and extinguishment of fires, and provide for the use and management of the same by voluntary fire companies or otherwise.

50. To regulate and prevent the storage of gunpowder, tar, pitch, resin, coal oil, benzine, turpentine, hemp, cotton, nitro glycerine, petroleum, or any of the products thereof, and other combustible or explosive material, and the use of lights in stables, shops and other places, and the building of bonfires; also to regulate and restrain the use of fireworks, firecrackers, torpedoes, Roman candles, sky rockets and other pyrotechnic displays.

51. To provide for the inspection of steam boilers.

52. To establish and erect a city jail, house of correction and workhouse for the confinement and reformation of disorderly persons, vagrants, tramps and idle persons and persons convicted of violating any city ordinance, and make rules and regulations for the government of the same, and appoint necessary jailers and keepers.

53. To use the county jail for the confinement or punishment of offenders, subject to such conditions as are imposed by law and with the consent of the board of county commissioners; and to regulate the police of the city, and pass and enforce all necessary police ordinances.

54. To prevent and suppress riots, routs, affrays, noises, disturbances and disorderly assemblies in any public or private place.

55. To prohibit and punish cruelty to animals.

56. To restrain and punish vagrants, mendicants and prostitutes.

57. To declare what shall be a nuisance and to abate the same, and impose fines upon persons who may create, continue or suffer nuisances to exist.

58. To erect and establish hospitals and medical dispensaries, and control and regulate the same.

59. To do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease.

60. To establish and regulate cemeteries within or without the

corporation and acquire lands therefor by purchase or otherwise, and cause cemeteries to be removed, and prohibit their establishment within one mile of the corporation.

61. To regulate, restrain and prohibit the running at large of horses, cattle, swine, sheep, goats, geese and dogs.

62. To direct the location and regulate the management and construction of packing houses, renderies, bone factories, slaughter houses, soap factories, foundaries, livery stables and blacksmith shops within, or within one mile of the limits of the corporation.

63. To prohibit any offensive or unwholesome business or establishment within, or within one mile of the limits of the corporation.

64. To compel the owner of any grocery, cellar, stable, pigsty, privy, sewer or other unwholesome or nauseous house or place, to cleanse, abate or remove the same, and to regulate the location thereof.

65. To provide for the taking of the city census, but no city census shall be taken oftener than once in three years.

66. To provide for the erection and care of all public buildings necessary for the use of the city.

67. To extend, by condemnation or otherwise, any street, alley or highway, over or across, or to construct, any sewer under or through any railroad tracks, right-of-way or land of any railroad company, within the corporate limits.

68. The city council shall have no power to grant the use of, or right to lay down any railroad tracks in any street of the city to any steam, electric or horse railway company except upon a petition of the owners of the land representing more than one-half of the frontage of the street or so much thereof as is sought to be used for railroad purposes.

69. To tax, license and regulate auctioneers, lumber yards, public scales, money changers and brokers.

70. To prevent and regulate the rolling of hoops, playing of ball, flying of kites, or any other amusement or practice having a tendency to annoy persons passing in the streets or on the sidewalks, or to frighten teams or horses.

71. To regulate or prohibit the keeping of any lumber yard and the placing or piling or selling of any lumber, timber, wood or other combustible material within the fire limits of the city.

72. To provide by ordinance that all the paper, printing, stationery, blanks, fuel and all the supplies needed for the use of the city shall be furnished by contract let to the lowest responsible bidder.

73. To tax, license and regulate second-hand and junk stores and to forbid their purchasing or receiving from minors, without the written consent of their parents or guardians, any article whatever, and to prescribe punishment for the violation thereof.

74. To purchase, erect, lease, rent, manage and maintain any system or part of system of waterworks, hydrants and supply of

water, telegraphing fire signals, or fire apparatus that may be of use in the prevention and extinguishment of fires, and to pass all ordinances, penal or otherwise, that shall be necessary for the full protection, maintenance, management and control of the property so leased, purchased or erected.

75. To redistrict the city into wards and prescribe the boundaries thereof, whenever a census of the city shall show the population to be large enough to require two aldermen more than are in the council at the time of taking such census.

76. To adopt such other ordinances, not repugnant to the constitution and laws of the state, as the general welfare of the city may demand.

77. To pass all ordinances, rules and make all regulations proper or necessary to carry into effect the powers granted cities, with such fines or penalties as the city council shall deem proper; provided, that no fine or penalty shall exceed one hundred dollars and no imprisonment shall exceed three months for one offense.

§ 2309. All bonds which shall be issued under the provisions of this chapter shall be issued in such amounts as the council shall by resolution determine, but in amounts of not less than one hundred dollars each, with interest coupons attached, as directed by the city council, and shall draw interest at a rate not exceeding seven per cent per annum, payable annually or semi-annually as may be determined by the city council and shall be made payable, principal and interest, either in New York City, Chicago, or the city issuing the same; and when no time is prescribed by statute when such bond shall become due and payable, then they shall become due and payable at such time as the city council shall by resolution determine, but in not less than ten years, and not more than twenty years after the date of the issuance thereof; and none of such bonds shall be sold or negotiated at less than their face value.

§ 2321. The city council when authorized by a majority vote of the people at an election held after twenty days notice in a newspaper published in said city, stating the purpose for which said bonds are to be issued and the amount thereof, may issue bonds to an amount not exceeding four per cent on the assessed value of the taxable property of said city, as shown by the last preceding assessment without regard to the existing indebtedness of such city for the purpose of constructing or purchasing water works for furnishing a supply of water to the inhabitants of said city or for the purpose of constructing sewers and for no other purpose whatever. Provided, that at no time shall there be bonds outstanding or unpaid issued under the provisions of this section to a greater amount than four per cent of the assessed valuation of the taxable property of such city as determined by the last preceding assessment; and none of such bonds shall be negotiated or sold for less than its face value; provided, further, that the water works mentioned herein and to be built with the proceeds of such bonds, may be built jointly

or in connection with an electric light or other plant for lighting said city, provided that no more of the bonds herein provided for or the proceeds thereof shall be used for the building, erecting or constructing of such joint plant (light and waterworks) than shall be required to build, erect or purchase such system of waterworks if built, constructed or purchased alone, and none of the proceeds of such bonds shall be used for any part of such joint plant other than the part used as waterworks.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no existing law adequately providing for the issuing of bonds by cities; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1899.

---

## CHAPTER 41.

[H. B. 92.]

### SEWER DISTRICTS.

AN ACT Entitled an Act Authorizing Cities to Establish and Maintain a General System of Sewerage, and to Provide for the Costs Thereof, and to Create Sewer Improvement Districts Within the Limits of Such Cities:

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

§ 1. SYSTEM OF SEWERAGE.] The city council shall have power to establish and maintain at any time a general system of sewerage for said city, in such manner and under such regulation as the city council shall deem expedient, and to alter or change the same from time to time as the council shall deem proper; provided, that no action shall be taken for the establishment of such system of sewerage, except upon the affirmative vote of at least two-thirds of the members of the city council; provided, further, that whenever a majority of the residents on any street, or part of street, owning land abutting thereon, shall petition the city council for the construction of a sewer on such street, or part of street, as a part of, or to connect with, such system of sewerage, all measures necessary for the construction of such sewer may be taken by a vote of the majority of the city council.

§ 2. ALTERING OR REPAIRING.] The cost of constructing, altering or repairing any of the sewers or improvements herein provided for or referred to shall be estimated by the city engineer of the city or such other competent engineer as may be selected by the city council for such purpose who shall draw plans and specifications therefor; and such estimate, together with such plans and specifications, shall be filed with the city auditor before any bids

for work thereunder are advertised for, and shall remain on file in his office and shall be opened to the inspection of all persons until after the contract for such work shall be let. The city engineer shall retain a copy of such plans and specifications in his office and shall furnish to any person applying therefor copies of the same, and may charge and receive for such copies at the rate of one dollar an hour for the time necessarily employed in making the same.

§ 3. DUTY OF COUNCIL.] The city council shall then cause proposals for said work to be advertised for in the official paper of such city, once in each week for three consecutive weeks, which advertisement shall specify the work to be done and shall call for bids upon a basis of cash payment for said work. Bids for such work shall be forwarded to the city auditor of such city securely sealed, so as to prevent their being opened without detection, and shall be endorsed upon the outside thereof with a statement as to what work such proposals are for. Each bid shall be accompanied by a bond running to such city in the penal sum of at least fifty per cent of the amount of the bid, which bond shall be executed by the bidder as principal and by two or more good and sufficient sureties, who shall justify in the manner required in arrest and bail, which bond shall be conditioned that the bidder will well and faithfully perform the work bid for, pursuant to the plans and specifications therefor, in case such contract is awarded to him, and that in case of default on the part of the bidder to perform such work as provided in his contract, or in case of his failing to enter into such contract in case the same shall be awarded to him under his bid therefor, that the sum named in said bond shall be taken and held to be fixed and liquidated damages in favor of said city, and that the full amount thereof may be recovered from said bidder and his sureties in an action by the city against them on said bond. Such bids shall be opened by the city council at the expiration of the time limited in said notice for receiving the same, or at such other time as the city council may appoint therefor.

§ 4. MAY REJECT BIDS.] The city council shall have the right to reject any and all bids for such work, if in its opinion the interests of the city will be best subserved by so doing; but if all such bids are not rejected, the contract shall then be awarded to the lowest responsible bidder upon the basis of cash payment therefor; provided, that such bidder shall have complied with the foregoing requirements and shall have guaranteed to the satisfaction of the city council the proper and speedy completion of said work. Such contract shall be entered into in the name of the city and shall be executed on the part of the city by the mayor thereof and countersigned by the city auditor with the corporate seal of the city affixed and an attested copy thereof shall be filed in the office of the city auditor. No such contract, except for the construction of a sewer upon petition as provided in section 2315, shall be awarded except upon a two-thirds vote of all the members of the

city council, and there shall be reserved in each contract so let the right of the city council, in case of the improper construction of such work, to suspend work thereon at any time and to relet the contract therefor, or to order a reconstruction thereof, or of any part thereof, improperly done.

§ 5. CONTRACTOR, HOW PAID.] In case the contractor to whom any such contract shall be let shall properly perform the work therein designated, the city council may, from time to time in its discretion as the work progresses, pay to such contractor upon an estimate made by the city engineer of the amount already earned thereunder eighty-five per cent of the amount shown by such estimate to have been so earned.

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

§ 7. SIZE AND FORM OF DISTRICTS.] Such sewer improvement districts shall be of such size and form as the city council, after consultation with the city engineer, shall decide most practicable for the purpose of drainage of such portion of such city as may be included in the respective districts as established by the city council.

§ 8. ASSESSMENT COMMITTEE.] For the purpose of paying for the construction, reconstruction, or extension of such sewers through any street, alley or public place within such district the city council shall provide as follows: The city council shall forthwith upon the letting of any contract under the provision hereof, create, by appointment of three persons from among the citizens of such city, a "special sewerage assessment committee," each member of which shall file with the city auditor a written acceptance of such appointment and take and subscribe an oath faithfully and impartially to discharge the duties of his position as a member of such committee, which oath shall be filed with the city auditor, and one of such persons shall be designated by the city council as the chairman of such committee. The city council may from time to time as occasion may require make new appointments to such committee to fill any vacancy arising therein from death or other cause, and in case any person so appointed neglects or refuses to act, appoint another in his place.

§ 9. DUTY OF COMMITTEE.] It shall be the duty of such committee personally to inspect any and all lots and parcels of land within such sewer improvement district and thereupon assess against all such lots and parcels of land, which will in the opinion of such committee be especially benefited by the construction of such system of sewerage, a special assessment in a sum not exceeding such benefits. Whenever such assessment is made and completed as to all the lots, parts of lots or parcels of land to be benefitted under any contract, the committee shall make or cause to be made a complete list thereof, setting forth the several tracts so assessed and the

amount assessed against each, and cause the same to be published once in each week for three consecutive weeks in the official newspaper of the city together with a notice of the time and place, when and where such committee will meet to hear objections which may be made to any such assessment by any owner or occupant of a tract so assessed, or other person interested in such assessment, or his agent or attorney, and thereupon alter or affirm the same as may in the opinion of the committee be just in the premises. The committee shall then deposit such assessment list with the city auditor who shall forthwith cause the same to be again published once in each week for three consecutive weeks in the official newspaper of the city, with a notice to the persons interested that at the next regular meeting of the city council after the expiration of the time of publication of such notice, giving the date thereof, appeals from the decision of such committee in relation thereto will be heard and determined by the city council.

§ 10. At such meeting of the city council any person so aggrieved by the determination of such committee in regard to any such assessment, and who appeared in person or by his agent or attorney before such committee as hereinbefore provided, if a resident of the city, and all nonresident owners of any property so assessed, whether they appeared before such committee or not, may appear before the city council and present their reasons why the action of such committee should not be affirmed by the city council, and the city council shall then hear and determine such appeals and objections, if any, and may alter or affirm the action of such committee in relation thereto 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 is made, to be certified as correct by the city auditor and filed in his office; and such assessment, with interest accruing thereon, shall be a paramount lien upon the property within the limits of the sewer 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 precedent over all other liens, except ordinary taxes, and as to such shall be concurrent, and shall not be divested by any judicial sale; and no mistake in the description of the property or in the name of the owner shall vitiate the lien.

§ 11. ERRORS OR MISTAKES.] In case of omission, errors or mistakes in making such assessment in respect to the total cost of improvements, or in case of deficiency or otherwise, it shall be competent for the council to cause to be made a supplemental assessment to supply such deficiencies, omissions, errors or mistakes, the total of such assessments not to exceed the benefits; such supplemental assessment shall be a lien upon the lots and lands as therein 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.

§ 12. ANNUAL PAYMENTS.] The special assessment hereinbefore provided for shall be payable in equal annual amounts extending over a period, not exceeding twenty years, and interest at the rate of not to exceed seven per cent per annum on the total unpaid assessments shall be payable annually.

§ 13. 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 land specially assessed for such improvement under the provisions of this act, with the proportion 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 the sewer improvement district fund for which it was collected. In case of error or mistake in making such tax levies, or in case of deficiencies therein or otherwise, it shall be the duty of the city council to make additional levies from time to time to supply such deficiencies and such additional levies shall be certified by the city auditor to the county auditor in like manner as the original levy and the county auditor shall extend such additional levies upon the tax roll for the current year in the same manner as the original levy.

§ 14. DESIGNATION OF DISTRICT.] All such special assessments shall constitute a fund for the payment of the cost of such improvement in the district for which such assessment was made, to be designated as "Sewer 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 assessment will provide for, which order shall bear interest at the rate of not to exceed seven 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 payments on contracts for making such improvement 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 funds and to cancel them when paid. 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.

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

§ 16. RIGHTS OF PROPERTY OWNERS.] 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 sum so that the superficial feet on any such improvement 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, parcel or parcels, to the superficial feet of the whole lot or lots, parcel or parcels.

§ 17. LETTERS AND FIGURES MAY BE USED.] 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 amount.

§ 18. ERROR OR OMISSION SHALL NOT VITIATE.] No error or omission which may be made in the order or in the proceedings of the city council, or of 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 effect 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.

§ 19. IN CASE OF REASSESSMENT.] In all cases where any assessment, or any part thereof, as to any lot, lots, or parcels of land assessed under any of the provisions of this act, or of any law of city prior to this act, for any cause whatever, whether jurisdictional or otherwise, shall be set aside, or declared void by any court, the city council shall, without unnecessary delay, cause a reassessment or new assessment to defray the expense of such improvement to be made, whether such improvement was made under this act, or any law of any city prior to this act, and such reassessment or new assessment shall be made as nearly as may be, as herein provided for making the assessment therefor in the first instance; and when the same shall have been made and confirmed by the city council.

it shall be enforced and collected in the same manner that other assessments are enforced and collected under this act, and in all cases where judgment shall hereafter be refused or denied by any court for the collection or enforcement of any special assessment, or where any court shall hereafter set aside or declare void any assessment upon any lot or parcel of land for any cause, the said lot or parcel of land may be reassessed or newly assessed from time to time, until each separate lot, piece or parcel of land has paid its proportionate part of the costs and expenses of said improvement as near as may be.

§ 20. UNPAID PORTIONS OF ASSESSMENTS.] Nothing in this section 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; nor shall it prevent any city from constructing its sewers hereafter under the provisions of article 18 of chapter 28 of the Political Code, or any other law in force governing the construction of sewers, if such city so desires.

§ 21. EMERGENCY.] An emergency exists in this that some of the cities of the state desire to make improvements during the year 1899 under the provisions of this act and it is necessary in order to make advantageous contracts for the material used in such improvements that such cities should enter into a 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 1, 1899.

## CHAPTER 42.

[S. B. 19.]

### IMPROVEMENT DISTRICTS.

AN ACT to Amend Sections 1, 6, 7, 8 and 9 of Chapter 41 of the Laws of 1897, of the State of North Dakota, Entitled: "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 Limit of Such Cities."

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

§ 1. AMENDMENT.] That section 1 of chapter 41 of the Laws of 1897 of the State of North Dakota, is hereby amended to read as follows:

§ 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, and to build and maintain sewers in and upon, 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 to provide for the cost thereof as hereinafter provided.

§ 2. AMENDMENT.] That section 6 of chapter 41 of the Laws of 1897 of the State of North Dakota, is hereby amended to read as follows:

§ 6. COSTS ASSESSED.] The cost of grading, curbing, paving, graveling, macadamizing and guttering, and building and maintaining sewers in and upon 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 benefits, 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.

§ 3. AMENDMENT.] That section 7 of chapter 41 of the Laws of 1897 of the State of North Dakota is hereby amended to read as follows:

§ 7. Paragraph 1. The city council shall forthwith upon the letting of any contract under the provision hereof create, by appointment of three persons from among the citizens of such city, a "Special Paving Assessment Committee," each member of which shall file with the city auditor a written acceptance of such appointment and take and subscribe an oath faithfully and impartially to discharge the duties of his position as a member of such committee, which oath shall be filed with the city auditor, and one of such persons shall be designated by the city council as chairman of such committee. The city council may from time to time as occasion may require make new appointments to such committee to fill any vacancy arising therein from death or other cause, and in case any person so appointed neglects or refuses to act, to appoint another in his place.

2. It shall be the duty of such committee personally to inspect any and all lots and parcels of land within such improvement district and thereupon assess against all such lots and parcels of land which will in the opinion of such committee be specially benefited by the construction of such improvements, a special assessment in a sum not exceeding such benefits. Whenever such assessment is made and completed as to all the lots, parts of lots or parcels of land to be benefited by the work under any contract, the committee shall make or cause to be made a complete list thereof, setting forth the several tracts so assessed and the amount assessed against each, and cause the same to be published once in each week for three

consecutive weeks in the official newspaper of the city together with a notice of the time and place, when and where such committee will meet to hear objections which may be made to any such assessment by any owner or occupant of a tract so assessed, or other person interested in such assessment, or his agent or attorney, and thereupon alter or affirm the same as may in the opinion of the committee be just in the premises. The committee shall then deposit such assessment list with the city auditor who shall forthwith cause the same to be again published once in each week for three consecutive weeks in the official newspaper of the city with a notice to the persons interested that at the next regular meeting of the city council after the expiration of the time of publication of such notice, giving the date thereof, appeals from the decision of such committee in relation thereto will be heard and determined by the city council.

3. At such meeting of the city council any person so aggrieved by the determination of such committee in regard to any such assessment and who appeared in person or by his agent or attorney before such committee as hereinbefore provided, if a resident of the city, and all non-resident owners of any property so assessed, whether they appeared before such committee or not, may appear before the city council and present their reasons why the action of such committee should not be affirmed by the city council, and the city council shall then hear and determine such appeals and objections, if any, and may alter or affirm the action of such committee in relation thereto as the city council may deem just in the premises; and shall thereupon cause such lists so altered to conform to its action, if any such alteration is made, to be certified by the city auditor as correct and filed in his office; as 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.

§ 4. AMENDMENT.] That section 8 of chapter 41 of the Laws of 1897 of the State of North Dakota is hereby amended to read as follows:

§ 8. In case of omissions, errors or mistakes in making such assessments in respect to the total cost of improvements, or in case of deficiencies or otherwise, it shall be competent for the council to cause to be made a supplemental assessment to supply such deficiencies, omissions, errors or mistakes, the total of such assessments, not to exceed the benefits; 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, 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.

§ 5. AMENDMENT.] That section 9 of chapter 41 of the Laws of 1897 of the State of North Dakota is hereby amended to read as follows:

§ 9. In all cases where any assessment or a part thereof as to any lot, lots or parcels of land assessed under any of the provisions of this act, or of any law of any city prior to this act, for any cause whatever, whether jurisdictional or otherwise, shall be set aside or declared void by any court; the city council shall, without unnecessary delay cause a reassessment or new assessment to defray the expense of such improvement to be made, whether such improvement was made under this act or any law of any city prior to this act, and such reassessment or new assessment shall be made as nearly as may be as herein provided for, making the assessment therefor in the first instance; and when the same shall have been made and confirmed by the city council it shall be enforced and collected in the same manner that other assessments are enforced and collected under this act. And in all cases where judgment shall hereafter be refused or denied by any court for collection or enforcement of any special assessment or where any court shall hereafter set aside or declare void any assessment upon any lot or parcel of land for any cause, the said lots or parcels of land may be reassessed or newly assessed from time to time until each separate lot, piece or parcel of land has paid its proportionate part of the costs and expenses of said improvements as near as may be.

§ 6. EMERGENCY.] An emergency exists that there is no adequate law on the subject matter of this act as amended; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 1, 1899.